

1 THE TRIBUNAL RESUMED AS FOLLOWS ON THE 6TH OF NOVEMBER,
2 2001, AT 10:30 A.M.:

3 .

4 CHAIRMAN: Good morning everyone.

5 .

6 MR. HUSSEY: Good morning, Sir.

7 .

8 MS. DILLON: Good morning, Sir.

9 .

10 The first witness is Mr. Stephen J Treacy.

11 Mr. Treacy, please.

12 .

13 MR. STEPHEN J TREACY, HAVING BEEN SWORN, WAS EXAMINED
14 AS FOLLOWS BY MS. DILLON:

15 .

16 1 Q. MS. DILLON: Good morning, Mr. Treacy.

17 .

18 You are a senior Inspector of Taxes in the
19 Investigation Branch in the Office of the Chief
20 Inspector of Taxes of the Revenue Commissioners.

21 A. That's correct.

22 2 Q. You have been working in the Investigation Branch since
23 1981. And you were appointed liquidator of Landsdowne
24 Construction Company on the 25th of June, 1984, on foot
25 of a petition lodged in the High Court by the Revenue
26 Commissioners.

27 A. That's correct.

28 3 Q. Prior to that time, and prior to the appointment of
29 yourself as liquidator of Landsdowne Construction
30 Company, there had been certain inquiries and

1 correspondence in train between the Investigation
2 Branch of the Revenue Commissioners and Lansdowne
3 Construction Company, and its advisers?

4 A. That's correct. By another inspector.

5 4 Q. By another inspector?

6 A. Yes.

7 5 Q. You were appointed liquidator. And after your
8 appointment as liquidator, you, yourself, engaged in
9 correspondence with Lansdowne Construction Company's
10 advisers?

11 A. That's correct, yes.

12 6 Q. Prior to you being appointed liquidator of Lansdowne
13 Construction Company, the two main advisers with whom
14 the - sorry, the main adviser with whom the
15 Investigation Branch had been in contact was Mr. Hugh
16 Owens of Owens Murray & Co., accountants?

17 A. Yes. I think I said "advisers" earlier. I just can't
18 recall plural. I think it was just one adviser that I
19 can immediately think of, Mr. Owens.

20 7 Q. And I think it's the case that Owens Murray & Co. were
21 the auditors of Lansdowne Construction Company, and had
22 submitted accounts to the Revenue Commissioners for
23 certain specific years, and in particular the year
24 ended 1977, and subsequently 1978?

25 A. Yes, both for Lansdowne and for the subsidiary company,
26 Green Isle.

27 8 Q. And I think it's the position that Green Isle Holdings
28 Trust was a wholly-owned subsidiary of Lansdowne
29 Construction Company Limited, and it too - it's
30 accounts had been furnished to the Revenue

1 Commissioners by Owens Murray & Co.

2 A. For 1978 only, so far as I recollect.

3 9 Q. After your appointment, you, yourself, engaged in
4 correspondence directly with Owens Murray & Company,
5 and in particular, with Mr. Hugh Owens, is that right?

6 A. That's right, yes.

7 10 Q. And this correspondence related both to the affairs of
8 Lansdowne Construction Company and Green Isle Holdings
9 Trust?

10 A. Yes.

11 11 Q. In addition, you also engaged in correspondence with
12 the firm of Miley & Miley, solicitors?

13 A. That's correct.

14 12 Q. And I think it is the position that insofar as
15 Lansdowne Construction Company was concerned, both
16 Mr. Daniel O'Connell Miley and Mr. Timothy Miley and
17 Mr. Stephen Miley were directors of Lansdowne
18 Construction Company at one point?

19 A. Mr. Timothy O'Connell Miley was, and Mr. Daniel
20 O'Connell Miley was. I am not sure about Mr. Stephen
21 Miley being a director. I just don't --

22 13 Q. We'll come to that. If I am incorrect, we can deal
23 with it.

24 A. Yeah.

25 14 Q. You had made available to you, I think, the
26 correspondence that had passed between the
27 Investigation Branch of the Revenue Commissioners and
28 the advisers of Lansdowne Construction Company that had
29 occurred prior to your appointment?

30 A. That's right, yes.

1 15 Q. In the course of your inquiries, you focused on a
2 number of matters to do with Lansdowne Construction
3 Company, some of which do not concern the Tribunal.
4 But the two matters on which you focused that are of
5 interest to the Tribunal was a payment of ú350,000 on
6 the 15th of December, 1977, by Green Isle Holdings
7 Trust Company to Rapallo Limited?

8 A. That's correct, yes.

9 16 Q. The second transaction on which you focused was the
10 payment of ú672,000, approximately, by Lansdowne
11 Construction Company to Arippe Investments Limited?

12 A. That's correct, yes.

13 17 Q. And arising out of your inquiries in relation to these
14 two transactions, you engaged in the correspondence
15 that we'll come to deal with in detail in a moment.

16 .

17 But your inquiries, I think, established that the land
18 at Carrickbrennan or Monkstown was acquired by way
19 initially of the leasehold interest of the Society of
20 the Sacred Heart for a consideration of ú210,000?

21 A. That's correct, yes.

22 18 Q. If we can just go back to deal with the issue of
23 Lansdowne Construction Company for a moment. And if we
24 could have page 4034, Mr. Treacy.

25 .

26 If you look at the second line on the column in front
27 of you, you will see that - this is an extract of the
28 past and present members of Lansdowne Construction.

29 And you will see that Stephen Miley, solicitor of 12
30 South Frederick Street, Dublin 2, was a member of

1 Lansdowne Construction Company. And if I can get the
2 documentation as to whether or not he was a director,
3 I'll show that to you also. Can you see that document?

4 A. I see it, yes.

5 19 Q. And that shows that Mr. Miley was at one stage a
6 director of - sorry, a shareholder in Lansdowne
7 Construction Company, but subsequently, I think,
8 transferred his shares to Kilnamanagh Estates Limited.
9 If you look at the final column, you will see that his
10 shareholding was transferred to Kilnamanagh Estates.

11 A. I see it, yes.

12 20 Q. If we can return, then, to the €350,000 transaction
13 involving Lansdowne Construction Company and Green Isle
14 Holdings Trust. Your inquiries establish that the
15 freehold interest was effected by means of the purchase
16 of the shares of a Jersey company called Bouganville?

17 A. That's right, yes.

18 21 Q. And this involved a payment of 350,010 to another
19 Jersey company called Rapallo Limited?

20 A. That's right.

21 22 Q. Arising out of these inquiries, you became involved in
22 correspondence with Mr. Owens of Owens Murray &
23 Company, solicitors in relation to this transaction?

24 A. I can't remember whether I engaged him in this
25 correspondence first, or Mr. Brennan and Mr. McGowan.

26 23 Q. Yes. You also wrote to Mr. Brennan and Mr. McGowan in
27 connection with this transaction. We'll deal with that
28 correspondence separately.

29 A. Okay.

30 24 Q. But insofar as you dealt at some stage, perhaps not

1 initially, with Owens Murray in connection with this
2 transaction, is that right?

3 A. I know that I requested a copy of the deposit account
4 from Mr. Owens, which showed the payment of 350,000. I
5 just have a blank at the moment on any correspondence
6 with Mr. Owens in relation to the 350,000, other than
7 requisitioning a copy of that deposit account.

8 25 Q. That's all right, Mr. Treacy. I'll take you through
9 the correspondence, initially dealing with the
10 submission of the accounts by Owens Murray & Company;
11 the correspondence with the Investigation Branch; and
12 then culminating in the correspondence with yourself,
13 when you were appointed liquidator?

14 A. Fine.

15 26 Q. Are you happy enough with that?

16 A. Fine, yes.

17 27 Q. The accounts of Green Isle Holdings Trust for the year
18 ended the 31st of December, 1978, were submitted to the
19 Revenue Commissioners by Messrs. Owens Murray &
20 Company. And if we could have page 5059, please.

21 .
22 You will see there that's a letter dated the 23rd of
23 November, 1979, enclosing the accounts for the year
24 ended the 31st of December, 1978, together with notes
25 and computations?

26 A. Yes. Yes.

27 28 Q. That was submitted to the Revenue Commissioners in the
28 normal course, and, in fact, there is a note on that
29 letter to say that the accounts were not, in fact,
30 attached, but they were ultimately submitted to the

1 Revenue Commissioners. And if we could have page 5056,
2 please.

3 .

4 This is the auditor's report for Green Isle Holdings
5 Trust Limited, dated the 26th of July, 1979. And
6 dealing with the affairs of the company to the 31st of
7 December, 1978?

8 A. That's correct.

9 29 Q. And if we turn to page 5057. You will see, on the
10 balance sheet, that the current assets of Green Isle
11 Holding Trust, as of the 31st of December, 1978, have
12 land at cost at ú356,340.

13 A. Yes.

14 30 Q. And at page 5060 of the same accounts, the land is -
15 that figure is arrived at by 63 sites at cost, being
16 the land at Carrickbrennan, Monkstown, in the sum of
17 ú575,628, less lands or sites that had been sold?

18 A. Yes.

19 31 Q. And that gives the net figure that's in the balance
20 sheet?

21 A. That's correct, yes.

22 32 Q. And that figure of ú575,628 is an amalgamation of the
23 ú210,000 for the leasehold interest on the Monkstown
24 lands, together with the ú350,000 that was paid for the
25 purchase of the freehold?

26 A. That's correct, yes.

27 33 Q. Now, I think if we turn to page 5062.

28 .

29 On the 20th of June, 1980, the Investigation Branch of
30 the Revenue Commissioners wrote to Owens Murray &

1 Company in connection with these accounts, and asked
2 for a copy of the contract covering the purchase of the
3 land by the company, and a copy of the site map,
4 including any revisions?

5 A. Yes.

6 34 Q. And on the 15th of July, at page 5054, the
7 Investigation Branch of the Revenue Commissioners wrote
8 again in connection with those accounts of Green Isle
9 Holdings Trust. And at Item 1, in connection with the
10 cost of land at ú575,628, sought a breakdown, in
11 effect, of the information?

12 A. Yes.

13 35 Q. And the auditors were asked to analyse the cost as
14 between purchase price, fees, Stamp Duty, et cetera?

15 A. Yes.

16 36 Q. That correspondence, also at 505, requested a copy of
17 the building licence granted to Lansdowne Construction
18 Company at paragraph 7?

19 A. Yes.

20 37 Q. Now, Messrs. Owens Murray replied to that inquiry on
21 the 5th of November, 1980, at page 3739. And insofar
22 as the first query in the Revenue letter of the 15th of
23 July was concerned, which was the analysis of the cost
24 of ú575,628, the response that was furnished was, the
25 cost of the leasehold was ú210,000. The freehold,
26 Bouganville Investments Limited, ú350,000. Stamp Duty,
27 legal fees and interest, then brought it up to
28 ú575,848?

29 A. Yes.

30 38 Q. And that's the explanation that was furnished by

1 Messrs. Owens Murray at that point in time as to why
2 the figure in relation to the cost of land was
3 ú575,000?

4 A. That's correct, yes.

5 39 Q. The Revenue had also sought in their letter of the 15th
6 of July, 1980, a copy of the bank account of Green Isle
7 Holdings Trust at Chase and Bank of Ireland, and that
8 was furnished at Item 2?

9 A. Yes.

10 40 Q. And they had also sought a breakdown of monies that had
11 been lent or advanced by Kilnarnagh, and Lansdowne
12 Construction Company.

13 A. Yes.

14 41 Q. And identified at No. 3 by Owens Murray & Company was,
15 "Money advanced re purchase", a sum of ú200,577.

16 A. Yes.

17 42 Q. There is no breakdown given as to whether the money
18 that is advanced by Kilnarnagh Estates was attributed
19 to either the leasehold or the freehold?

20 A. I think I have in my records some indications of how
21 that leasehold was financed. My recollection is that
22 Lansdowne provided funds, and Kilnarnagh provided
23 funds, and between the two of them it provided
24 sufficient to pay for the leasehold. In fact, I think
25 there was a surplus of those funds which went a little
26 way towards financing the purchase of the freehold,
27 which was mainly financed by borrowings from Chase
28 Bank.

29 43 Q. Yes. But the figure that's given there, of ú200,577,
30 is simply described as money that was advanced for the

- 1 purchase from Kilnarnagh?
- 2 A. I think, just to be clear on this, could you go back to
- 3 the balance sheet for just a moment, please? Can you
- 4 flip back to the balance sheet?
- 5 44 Q. Yes. The balance sheet is at page 5077. Sorry, 5077.
- 6 If you scroll down, you will see there identified as
- 7 "Current Liabilities", the second column, "Kilnarnagh
- 8 Estates", and that is the figure?
- 9 A. Yes. My recollection is that that is a balance at a
- 10 particular point in time. It's an amalgam of a number
- 11 of items.
- 12 45 Q. Yes. It --
- 13 A. It's not a single amount.
- 14 46 Q. That relates to this particular purchase?
- 15 A. No. I think - my recollection is that - I am open to
- 16 correction on this now, but I think Lansdowne withdrew
- 17 €175,000 from its current account, and that there was
- 18 another 100,000, or thereabouts, coming from
- 19 Kilnarnagh. There were several amounts, anyway, that
- 20 went to fund the leasehold.
- 21 47 Q. Yes. And I think that becomes clearer as we go through
- 22 the correspondence. However, on receipt of this
- 23 information from Owens Murray & Company, the
- 24 Investigation Branch again wrote on the 20th of
- 25 November, 1980, that's page 3742.
- 26 .
- 27 And insofar as the land at cost was concerned, the
- 28 queries are now becoming more specific, isn't that
- 29 right?
- 30 A. Yes.

1 48 Q. The question for the auditors now was, "Through what
2 bank account was the ú210,000 paid?" And that's the
3 ú210,000 that was paid to the Convent of the Sacred
4 Heart for the leasehold --

5 A. Yes.

6 49 Q. -- of the Monkstown lands?

7 A. Yes.

8 50 Q. They are asked on what date was it paid? "Was the
9 conveyance taken by Green Isle direct from the vendors,
10 Mary Henry and Others?" And at "B" the query is:
11 "Through what bank account was the ú350,000 paid? To
12 whom and on what date? From whom were the 12 shares in
13 Bouganville Investments Limited purchased? And on what
14 date? What was the cost? And through what bank
15 account was it paid? And the date." And also a copy
16 of the relevant contract.

17 A. Yes.

18 51 Q. And in relation to the other queries that have been
19 answered by Owens Murray in the earlier letter, if we
20 move down through the page, you will see at Item 2 that
21 the Revenue are querying the destination of the
22 ú260,000 that was borrowed from Chase Bank on the 13th
23 of December, 1977?

24 A. Yes.

25 52 Q. And I think that ultimately went to form part of the
26 ú350,000 --

27 A. That's right.

28 53 Q. -- that was transferred to Jersey?

29 A. Yes.

30 54 Q. At Item 3, in relation to Kilnamanagh Estates, I think,

1 correctly, this should have been entitled "Landsdowne
2 Construction", because the ú100,000 in question, if we
3 go back to page 3739 and the answer from Owens Murray,
4 and you look at Item 4, you will see that the ú100,000
5 that was advanced is under the heading "Landsdowne
6 Construction Company Limited."

7 A. Yes.

8 55 Q. So if we go back to the inquiry from the Revenue at
9 3742, at No. 3 it says, under the heading "Kilnamanagh
10 Estates Limited", "On what dates was the ú100,000
11 received? And into what bank account was it paid?

12 .

13 2. Were the repayments of ú140,767 made direct by
14 Lansdowne to Chase and Bank of Ireland?"

15 .

16 They were the queries that were raised on foot of the
17 answers that had been given by Owens Murray?

18 A. Yes.

19 56 Q. Owens Murray responded to that by letter dated the 17th
20 of December, 1980, at page 3753, referring to the
21 letter from the Revenue Commissioners of the 20th of
22 November, 1980. And I think the notes in handwriting
23 on the screen are notes that were made by an official
24 in the Revenue Commissioners?

25 A. Yes.

26 57 Q. And in relation to the first query from the Revenue
27 which was: "Through what bank account was the ú210,000
28 paid, and on what dates?" The answer given is:
29 "(A) Paid by Vincent and Beatty, solicitors, November
30 1977. The conveyance was from the Sacred Heart nuns to

1 the company, of which is Green Isle Holdings Trust,
2 copy apportionment account and cash account enclosed."

3 .

4 That's the response that was furnished?

5 A. Yes, I see the "by" is underlined. Perhaps it meant

6 two.

7 58 Q. I think that's been - the Tribunal has heard that

8 Vincent and Beatty acted on behalf of the Convent of

9 the Sacred Heart nuns, and if one looks at the

10 apportionment account, or the cash account that's at

11 page 3735, dealing with this transaction, one sees that

12 the money was received, in fact, by Messrs. Vincent and

13 Beatty on behalf of the Convent of the Sacred Heart?

14 A. Yes.

15 59 Q. You see the deposit of ú21,000, and then the balance of

16 the purchase price being paid?

17 A. Yes.

18 60 Q. So that that would appear to be an error by - if we go

19 back to page 3753, by Mr. Owens.

20 .

21 But the query that was, in fact, put to Mr. Owens in

22 the Revenue's letter of the 20th of November was,

23 "Through what bank account was the money paid?"

24 A. Yes.

25 61 Q. Is that information supplied?

26 A. Eventually --

27 62 Q. We'll just deal with the correspondence in sequence.

28 A. Well, it doesn't appear to be in that paragraph, 1A.

29 63 Q. And we will see from the later correspondence,

30 Mr. Treacy, that the Revenue returned to that question,

1 because they hadn't been given a response by Messrs.

2 Owens Murray & Company in relation to that query.

3 .

4 Item 1(b) of the letter of the Revenue Commissioners of

5 the 20th of November had sought similar information in

6 relation to the ú350,000, "Through what bank account

7 was it paid? To whom? And on what date?" And the

8 answer that was given in 1(b) that's on screen was:

9 "The ú350,000 was paid to Bedell & Cristin, solicitors

10 for Bouganville Investments Limited on the 13th

11 December, 1977."

12 A. Yes.

13 64 Q. The date is given, but the bank account details have

14 not been furnished?

15 A. No.

16 65 Q. And other information is given in relation to the

17 transfer of the shares. And reference is made that

18 there was no contract, as such, in relation to the

19 disposition of the shareholding in Bouganville to Green

20 Isle Holdings Trust, but it was evidenced by

21 correspondence, a copy of which was enclosed?

22 A. Yes.

23 66 Q. The correspondence that was enclosed, to which Item

24 1(b) refers was, in fact, correspondence that the

25 Tribunal has heard was initiated by Mr. Hugh Owens in

26 relation to the acquisition of the shareholding in

27 Bouganville?

28 A. Yes.

29 67 Q. And the correspondence that was furnished, if we look

30 at page 3754, which is the next page of this letter,

1 and we scroll down to the bottom, you will see, for
2 example, the correspondence that was enclosed was a
3 copy of the Miley & Miley letter, dated the 27th of
4 July, '77.

5 A. Yes.

6 68 Q. And if we look at page 160, that is a copy of the
7 letter from Miley & Miley of the 27th of July, '77,
8 which, in effect, was the Letter of Offer --

9 A. Yes.

10 69 Q. -- setting out that they have been "instructed by Green
11 Isle Holdings Trust Limited to write to you in
12 connection with the above premises.

13 .

14 Apparently clients of yours, Messrs. Bouganville
15 Investments Limited are the owners of the fee simple
16 interest in the land, and we will be obliged if you
17 will let us know whether they are prepared to sell it,
18 and if so, perhaps you would contact us to discuss
19 terms."

20 A. Yes.

21 70 Q. Now, the Tribunal has heard, including from Mr. Owens,
22 that this correspondence was prepared by him, and that
23 he involved a number of solicitors in Dublin and in
24 Jersey in connection with the transaction, and that
25 this correspondence was put in place, effectively, to
26 provide a mechanism for the transfer of these funds to
27 Jersey?

28 A. Yes.

29 71 Q. You are familiar with the - are you familiar with that
30 evidence that has been heard here at the Tribunal?

1 A. I haven't read the transcripts for last week of
2 Mr. Owens' evidence, because I was away. I just caught
3 news clips of it. So I have the gist of it.

4 72 Q. But this correspondence was being produced to the
5 Revenue Commissioners to substantiate the transaction
6 that was being conducted, and the value of which was
7 being claimed in the accounts of Green Isle Holdings
8 Trust?

9 A. That's correct, yes.

10 73 Q. Now, this correspondence, as the Tribunal has been told
11 by both - by Mr. Owens and by other witnesses, was
12 correspondence that was preordained, and which was sent
13 out to Jersey in draft form, and which was furnished to
14 the solicitors involved in the transaction in draft
15 form, and which required certain letters to be sent on
16 certain dates?

17 A. Yes.

18 74 Q. The Tribunal has also heard, that insofar as the
19 agreement between Rapallo and Bouganville was
20 concerned, the management agreement which gave rise to
21 the indebtedness for ú350,000, that in fact no services
22 were provided on foot of that agreement. And that
23 these two companies, Bouganville Investments and
24 Rapallo, existed, as has been described here, side by
25 side in a filing cabinet?

26 A. Yes.

27 75 Q. There were no employees, there were no accounts, there
28 was no work done, there were no services provided?

29 A. Yes.

30 76 Q. And that these two companies were brought into being

1 for the purposes of giving effect to this transaction,
2 the purpose of which was to transfer these funds to
3 Jersey?

4 A. Yes.

5 77 Q. The information that was furnished by Mr. Owens in his
6 letter of the 17th of November, 1980, produced the
7 letter that's on screen, and other correspondence to
8 the Revenue Commissioners in support of the contention
9 that the value, or the cost of the land at Monkstown
10 was over half a million pounds?

11 A. That's correct, yes.

12 78 Q. Was it indicated at any stage to the Revenue
13 Commissioners, in the course of this inquiry, the true
14 nature of the transaction that was being conducted?

15 A. No, not to my knowledge.

16 79 Q. Mr. Owens, in this letter, also furnished to the - I
17 think furnished also other correspondence, such as if
18 we could have page 3688, please.

19 .
20 This is the response to the earlier Letter of Offer to
21 buy the freehold, and in this letter Bedell & Cristin,
22 solicitors acting on behalf of Bouganville Investments,
23 refuse, in effect, to sell the freehold outright, but
24 offer to sell the shares in Bouganville Investments,
25 "provided your clients take on the liabilities of that
26 company which amount to ú350,000"?

27 A. Yes.

28 80 Q. And in subsequent correspondence, I think, at 162,
29 Miley & Miley, on behalf of Green Isle Holdings Trust,
30 confirmed that they will be agreeable to buy the shares

1 in Bouganville Investments Limited, "subject to
2 approval of the form of contract balance sheet and a
3 price to be paid"?

4 A. Yes.

5 81 Q. You were furnished, or the Revenue Commissioners were
6 furnished with this documentation by Mr. Owens, because
7 he said that there was no formal contract, as such, but
8 that the acquisition of the shares was evidenced in
9 correspondence, "a copy of which is enclosed"?

10 A. Yes.

11 82 Q. This is the correspondence that he furnished to you,
12 isn't that right?

13 A. Yes.

14 83 Q. And if we go back to --

15 A. Furnished to the Inspector.

16 84 Q. Furnished to the Inspector?

17 A. Yes.

18 85 Q. But which you had available to you, when you ultimately
19 conducted the liquidation?

20 A. Yes. Yes.

21 86 Q. The origin of this correspondence, Mr. Treacy, arises
22 in a letter of the 7th of July, 1977, from Owens Murray
23 to Mr. Wheeler. Are you familiar with this
24 correspondence? You may not have seen this
25 correspondence. Page 153, please.

26 .

27 This is headed: "Rapallo Limited and Bouganville
28 Investments Limited."

29 .

30 And in this letter Mr. Owens Murray is setting out the

1 strategy, and enclosing a schedule of correspondence to
2 be sent on particular dates in relation to the
3 transaction between Rapallo Limited and Bouganville
4 Investments Limited, and the sale of the shares in
5 Bouganville to the Irish company?

6 A. I don't recall that this correspondence was furnished
7 to the Revenue. I think this only came about when
8 Mr. Howard came on the scene.

9 87 Q. That is correct. There is nothing to indicate that the
10 Revenue Commissioners were ever furnished with this
11 correspondence.

12 A. No.

13 88 Q. What the Revenue Commissioners were furnished with, by
14 Mr. Owens in his letter of the 17th of December, 1980,
15 is not the draft of this correspondence, but the
16 correspondence that was ultimately sent?

17 A. Mm-hmm.

18 89 Q. With the headed notepaper and matters such as that
19 sort.

20 A. Revenue - some of the correspondence --

21 90 Q. But not in its draft form. This is --

22 A. I beg your pardon, not in this draft form, no. No.

23 91 Q. In this letter, Mr. Owens is setting out how the - how
24 it's going to operate, the structure or the deal that's
25 being put in place here between Rapallo and
26 Bouganville.

27 A. Yes.

28 92 Q. And at paragraph 2 he sets out that: "There will be
29 three Dublin solicitors. The first is Vincent and
30 Beatty, 67 Fitzwilliam Square, Dublin 2, who act for

1 the Sacred Heart nuns, who have a contract to purchase
2 the freehold of the property. The second will be Young
3 and O'Reilly, solicitors, Lower Leeson street, who will
4 act as your agents in the investigation of title on the
5 purchase of the property. The third will be Miley &
6 Miley, solicitors, 12 South Frederick Street, who will
7 act for the ultimate purchaser of the shares in
8 Bouganville."

9 .

10 And the ultimate purchaser of the shares in Bouganville
11 was Green Isle Holdings Trust?

12 A. Yes.

13 93 Q. He then sets out that he's had a "consultation with
14 solicitors over here, and the revised and final scheme
15 is enclosed. Bouganville will take the property direct
16 without going through Rapallo, and Rapallo will take
17 its profit by entering into a management agreement with
18 Bouganville."

19 .

20 And then he encloses a memorandum, describing in
21 general the scheme from beginning to end. And then he
22 encloses a detailed timetable of 16 letters and events,
23 and "Please note that the dates on the letters must be
24 as per the enclosed timetable."

25 A. Yes.

26 94 Q. The scheme - the general particulars in relation to the
27 scheme, as furnished by Mr. Owens to Mr. Wheeler, are
28 at page 154. And that sets out in general the scheme
29 that provides for the transfer of the ú350,000. And at
30 page 155, a timetable for letters and action is set

1 out.

2 .

3 And if we move down to look at this timetable. If you
4 look at Item 9. Item 9 is a letter of the 22nd of
5 July, 1977, from Miley & Miley, solicitors, offering to
6 buy the freehold?

7 A. Yes.

8 95 Q. And if you - at page 160. You will see the letter from
9 Miley & Miley offering to buy the freehold. And the
10 drafts of those letters, it would appear, were all
11 furnished by Mr. Owens to Messrs. Bedell & Cristin, and
12 subject to anything anybody else might later say, to
13 the particular firms of solicitors involved?

14 A. Yes.

15 96 Q. Mr. Beatty, who has earlier given evidence, has said he
16 did not receive for the firm of Vincent and Beatty any
17 such letter?

18 A. Yes.

19 97 Q. But if we go back now to look at the information that
20 was furnished to the Revenue Commissioners by Mr. Owens
21 on the 17th of December, 1980, at page 3753.

22 .

23 At paragraph 1(b), in dealing with the ú350,000
24 transaction, which does not answer the specific
25 question he was asked in the first place, but goes on
26 to set out that: "There was no contract, and the
27 acquisition of the shares was by correspondence, of
28 which copy is enclosed."

29 A. Yes.

30 98 Q. And the copy that's enclosed. If we turn to page 3754,

1 Mr. Treacy, are items 4, 5, 6, 7 and 8 of that
2 correspondence.

3 A. Yes.

4 99 Q. And all of that correspondence are the final versions
5 of the letters that had originally been drafted by
6 Mr. Owens and sent to Mr. Wheeler in the correspondence
7 we've just looked at?

8 A. Yes.

9 100 Q. It would appear, therefore, that Mr. Owens in
10 furnishing you with this correspondence, was seeking to
11 establish the validity of the transaction that took
12 place?

13 A. Yes.

14 101 Q. And that at that stage it was not made clear to the
15 Revenue Commissioners the true nature of the
16 transaction that was happening?

17 A. No.

18 102 Q. Insofar as Item No. 2 is concerned on that letter, the
19 question that had been raised by - the question that
20 had been raised by the Investigation Branch in its
21 letter was a question: "What was the destination of
22 the ú260,000?" And again, if we go back to Question 3
23 - letter 3753, you will see that the query does not
24 appear to be answered, Mr. Treacy, in that the
25 information that is furnished in relation to those
26 monies is not the destination of the funds, but that
27 the application was verbal. And it encloses a letter
28 from Chase Bank.

29 A. I've lost the thread of that.

30 103 Q. If you go back to page 3753, Mr. Treacy, and you look

1 at Item No. 2.

2 A. Yes.

3 104 Q. I beg your pardon, 3742. At Item No. 2, on this letter
4 of inquiry from the Revenue Commissioners to Mr. Owens,
5 the information that is sought is: "Please forward a
6 copy of the loan application made to the bank, and a
7 copy of the Letter of Offer."

8 A. Okay.

9 105 Q. "What was the destination of the ú260,000 on the 13th
10 December, 1977?"

11 A. Yes.

12 106 Q. So the Revenue wanted to know - wanted a copy of the
13 loan application, presumably, to see the purpose of the
14 loan?

15 A. Yes.

16 107 Q. To see the Letter of Offer, to see what requirements
17 the bank had placed on making the loan, and then, where
18 the money went?

19 A. Yes.

20 108 Q. If you look at the response that was furnished by Mr.
21 Owens, at page 3753, Mr. Owens tells the Revenue that
22 the application was verbal, and encloses a copy letter,
23 which is a Letter of Offer from Chase of the 23rd of
24 September, 1977?

25 A. Okay.

26 109 Q. But insofar as the Revenue had inquired about the
27 destination of the ú260,000 that was raised, that
28 inquiry is not answered?

29 A. I agree, yes. Yes.

30 110 Q. Insofar as Item No. 3 is concerned, and this was the

1 query about the €100,000 that had, apparently, been
2 lent by Lansdowne Construction Company to Green Isle
3 Holdings Trust, the answer - the question that had been
4 asked in relation to this, at page 3742, was: "On what
5 dates was the €100,000 received? And into what bank
6 account was it paid?"

7 A. Yes.

8 111 Q. And the response at page 3 - sorry, at page 3753, at
9 Item 3, says: "The €100,000 was paid either to Vincent
10 and Beatty or Bedell & Cristin in connection with the
11 land acquisition."

12 A. Mm-hmm.

13 112 Q. That would appear to suggest that Messrs. Owens Murray
14 & Co. did not know, as auditors of the company, whether
15 the €100,000 that had been lent by Lansdowne
16 Construction Company had been paid to Vincent and
17 Beatty in connection with the leasehold, or had been
18 paid to Bedell & Cristin in connection with the
19 freehold?

20 A. Yes.

21 113 Q. And it says, "Was not received into any bank account of
22 the company."

23 A. Yes.

24 114 Q. Would that be normal?

25 A. Would it be normal for monies like that --

26 115 Q. To be passed over without passing through any bank
27 account of the company?

28 A. Not in my experience.

29 116 Q. Mr. Owens seems to be saying there that there - that
30 the €100,000 that was borrowed by Lansdowne and lent to

1 Green Isle Holdings, which appeared in the balance
2 sheet, was money that was paid directly, either to
3 Vincent and Beatty, who acted in connection with the
4 purchase of the leasehold, or Bedell & Cristin, who
5 acted in connection with the transaction, the ú350,000
6 transaction. The auditors don't appear to know where
7 the money went.

8 A. But the fact of the matter is, in response to a
9 subsequent query, they did furnish a copy of the bank
10 account --

11 117 Q. Yes --

12 A. -- in relation to Green Isle, which seemed to clarify
13 what went where, what was received in, and what was
14 paid out.

15 118 Q. Yes. We'll come to deal with that, because that
16 information was, in fact, furnished by Messrs. Owens
17 Murray to you in your capacity as liquidator, after you
18 had been appointed by the Court?

19 A. Yes.

20 119 Q. In January of - February of 1985?

21 A. Yes.

22 120 Q. Insofar as the information that is now being furnished
23 to the Investigation Branch of the Revenue in December
24 of 1980 is concerned, am I correct in understanding
25 that what Owens Murray are telling the Revenue
26 Commissioners in connection with this transaction, is
27 that insofar as the loan from Lansdowne Construction
28 Company to Green Isle Holdings is concerned, the money
29 went either for the leasehold or the freehold, and they
30 don't appear to know which?

1 A. I am reluctant to be definitive here, because the fact
2 of the matter is you have two companies which are
3 closely connected, and there are inter-company accounts
4 being operated. So whenever money moves, whether it
5 moves directly or indirectly, and if it doesn't go
6 through the company account, it can be picked up in the
7 inter-company account. If monies are paid by one on
8 behalf of another, that can be rectified through the
9 inter-company account.

10 .

11 Just, as an accountant, I am just finding it - I am a
12 bit reluctant to give you a precise answer to your
13 question without actually referring to - back to what
14 records there are in connection with these
15 transactions.

16 121 Q. I am not concerned with, really, the financial
17 accounting of the ú100,000, Mr. Treacy. I am concerned
18 with the information contained in the words, "That the
19 money was paid either to Vincent and Beatty or Bedell &
20 Cristin."

21 .

22 The money could not have been paid to both.

23 A. All I can tell you, from where I am now, is what I
24 recollect. My only recollection is that Bedell &
25 Cristin got ú350,000 out of the Green Isle deposit
26 account.

27 122 Q. That's correct.

28 A. And that Vincent and Beatty, so far as I recollect, got
29 their money out of the same deposit account.

30 123 Q. That's partially - well, yes, we'll come to look at the

1 deposit account. But it's the source, I think, of the
2 monies going into the deposit account.

3 A. As I say, as regards - and sorry, just to come back -
4 if I might come back to the leasehold for the moment.
5 There was a deposit of ú21,000 paid.

6 124 Q. That's correct?

7 A. My understanding is that that deposit was paid by
8 Kilnamanagh Estates Limited, and that was accounted for
9 in Green Isle's books through an inter-company account.
10 And that the balance of the monies went through the
11 Green Isle deposit account, was paid out of the Green
12 Isle deposit account, and that the ú350,000 to Bedell &
13 Cristin for the freehold was paid out of that deposit
14 account.

15 125 Q. That is correct. The money was all routed through the
16 Green Isle Holdings' deposit account?

17 A. Yes.

18 126 Q. But insofar as the answer to the query which is
19 contained here, the factual information that is given
20 to the Revenue Commissioners, ignoring for the moment
21 the accounting treatment of the ú100,000, is that the
22 auditors did not seem to be clear as to whether these
23 monies were paid for the leasehold or for the freehold?

24 A. I don't suppose it's for me to comment on how precise
25 or imprecise Mr. Owens' letters are, but I think,
26 speaking as an accountant, at times one writes letters
27 and gives an end result rather than going through the
28 minutia of what precisely happens to each amount. I am
29 just wondering, is that what's happened here? Is that
30 the intention, to convey an end result, however

1 imprecise it may be? And I say "may be" because I am
2 just not certain at the moment.

3 127 Q. This ú100,000 may, and I only say "may", Mr. Treacy,
4 and it's interesting from the Revenue's point of view,
5 is that it may - and I say "may" comprise three amounts
6 of 33,000 - or 33,333.33, that this was money that was
7 injected by the three investors.

8 .
9 According to what the auditor is saying here, this
10 money that was injected through Lansdowne Construction
11 Company was paid either to Vincent and Beatty, which
12 means it had to be paid in connection with the purchase
13 of the leasehold interest, or it was paid to Bedell &
14 Cristin in connection with the purchase of the freehold
15 interest. In other words, this sum was amalgamated to
16 either buy the leasehold, or it was amalgamated to
17 bring the freehold?

18 A. Again, all I can say is that, from looking at the
19 deposit account, it couldn't have related to the Bedell
20 & Cristin payment, because it would have been
21 insufficient.
22 .
23 The Bedell & Cristin payment was made up of a balance
24 of the deposit account. My recollection is that there
25 was something like 30 odd thousand pounds in the
26 deposit account. The 260,000 that came in from Chase,
27 then, served to increase the balance on the deposit
28 account. And I think a further item of - I think, was
29 it ú50,000 or thereabouts, came in from somewhere else.
30 And at that stage there was sufficient in the deposit

1 account to pay 350,000 to Bedell & Cristin.

2 128 Q. Yes. The main part of the fund that was paid to Bedell

3 & Cristin was the loan from Chase Bank on the 13th of

4 December?

5 A. Yes.

6 129 Q. That had been borrowed from Chase and Bank of Ireland?

7 A. That's right.

8 130 Q. That was lodged to the account of Green Isle Holdings

9 Trust, and amalgamated with some funds, and transferred

10 in the sum of ú350,000 to Jersey?

11 A. Yes.

12 131 Q. So it would appear that if ú100,000 was lent by

13 Landsdowne Construction to Green Isle Holdings Trust,

14 it was not paid to Bedell & Cristin for the freehold?

15 A. It couldn't have been, no.

16 132 Q. But the auditors, in answering the query that was

17 raised by the Revenue, does not make that point.

18 A. They say it was paid either to --

19 133 Q. Yes?

20 A. Either/or.

21 134 Q. Yet it would appear from the Green Isle Holdings Trust

22 deposit account that the ú100,000 could not have been

23 paid to Bedell & Cristin?

24 A. Yes, I agree.

25 135 Q. Because it is paid, in fact, mainly from the ú260,000,

26 plus the other funds that were already there, the

27 sources of which have already been identified?

28 A. Yes.

29 136 Q. But insofar as the information that is contained in

30 this correspondence is concerned, at the point in time

1 when the Revenue were raising their inquiries in
2 connection with this transaction, the information that
3 is being furnished by Mr. Owens, as auditor, does not
4 appear, at first glance, to answer the specific queries
5 that were raised by the Revenue Commissioners as to -
6 through what bank account, and on what dates were the
7 funds paid, in relation to the two transactions?

8 .

9 If we look at 1(a) and 1(b). If we scroll back down
10 that page, please.

11 .

12 The specific transactions, the information that the
13 Revenue had been seeking is not being furnished here by
14 the auditors at this point in time?

15 A. At that point in time, no, it doesn't appear to.

16 137 Q. In addition, the auditors are furnishing correspondence
17 to establish the validity of the transaction, and that
18 correspondence is correspondence passing between
19 solicitors in Jersey for Bouganville and solicitors in
20 Ireland for Green Isle Holdings Trust?

21 A. Yes.

22 138 Q. I think that it is correct to say that subsequently the
23 Revenue raised further queries arising from this letter
24 of the 17th of December. And at page 3755 --

25 A. Sorry, just before you go on. If I might make a
26 comment in general about the Revenue's experience in
27 dealing with certain agents in the Investigation
28 Branch, in particular where I have been most of my
29 life, that one tends to find that it's not usual to get
30 a fully comprehensive reply to every point raised in

1 one's first letter that one sends out to an agent.
2 Life would be a lot easier if that was the case. That
3 does tend to be the case, that one raises a particular
4 query, gets a certain type of reply, and then in turn
5 has to seek further elaboration, clarification,
6 elaboration, clarification, over, possibly, a long
7 period of time. That's just the way it is.

8 139 Q. I am not saying there is anything unusual about this
9 series of correspondence. Simply to establish the
10 factual position about what was asked and what response
11 was given, and what information was available to Owens
12 Murray at the time that they furnished the information.

13 A. Yes.

14 140 Q. The Revenue were not satisfied, I think, with the
15 answers that had been given by Mr. Owens in his earlier
16 correspondence, and again wrote, on the 8th of January,
17 1981, at page 3755. And at paragraph 1, dealing with
18 land at cost, ú575,628, it says: "(A) Through what
19 bank account, on what date and in what amounts did the
20 company pay Messrs. Vincent and Beatty the sum of
21 ú225,628.40 shown in the cash account dated the 9th of
22 November?"

23 .
24 And, "(B) Through what bank account did the company pay
25 the ú350,000 payment made direct to Messrs. Bedell &
26 Cristin. Forward a copy of the documents enclosed with
27 the letter of the 24th October, 1977.

28 .
29 Presumably, your clients obtained a professional
30 valuation of the freehold. A copy is requested."

1 .
2 Moving down to Item No. 2, which again was the loan
3 from Chase and Bank of Ireland, it again repeats:
4 "As requested, let me know the destination of the
5 ú260,000 on the 13th of December, 1977."
6 .
7 And 4, in relation to Landsdowne Construction Company
8 Limited: "I regret the paragraph number and heading in
9 my letter of the 20th of November were incorrect.
10 Please let me have the paid cheque for ú100,000 for
11 inspection."
12 A. Yes.
13 141 Q. The response to this letter is at page 3773 of the 25th
14 of March, 1981. And insofar as the land at cost query
15 is concerned, the answer is:
16 .
17 "(A) Payments to Vincent and Beatty. ú21,000 to
18 follow. ú204,628, the 11th of November, 1977, from
19 Green Isle Holdings Trust's book deposit account."
20 A. Yes.
21 142 Q. And Item B: "Payment made to Bedell & Cristin from
22 Green Isle Holdings Trust's book deposit account."
23 .
24 And then it refers to the management agreement and
25 Bouganville Investments Limited "account at the 21st
26 October, 1977, enclosed. No professional valuation."
27 .
28 If we could look first of all at number B there. You
29 are being told there that the payment, and this is the
30 transfer of the money to Jersey, was made to Bedell &

1 Cristin from Green Isle Holdings Trust's book deposit
2 account?

3 A. Yes.

4 143 Q. You subsequently, when you were appointed liquidator -
5 just excuse me a moment - obtained, I think in 1985, a
6 copy of the Green Isle Holdings' book deposit account?

7 A. Yes, that's right.

8 144 Q. And that, in fact, is at page 3824.

9 .

10 Now, you will see there a payment to Vincent and Beatty
11 on the 11th of the 11th, '77, of ú204,628?

12 A. Yes.

13 145 Q. That is the balancing payment in relation to the
14 leasehold interest?

15 A. Yes.

16 146 Q. Prior to that, there had been a credit in the sum of
17 ú275,000, which appears to be attributed to a sum of
18 ú175,000 from Lansdowne Construction, and ú66,000 from
19 Kilnarnagh Estates. If you see the note --

20 A. I think I was able to check for definite that the 175
21 came out of the Lansdowne current account, but I
22 thought, and I stand to be corrected on this, that the
23 remainder of ú100,000 actually came from Kilnarnagh,
24 notwithstanding the notation there.

25 147 Q. Yes.

26 A. But I can't be 100 percent certain on that.

27 148 Q. And on the 14th of the 12th, the 14th of December,
28 1977, there is a lodgement of ú260,000?

29 A. Yes.

30 149 Q. This is the funds that were borrowed from Chase Bank?

1 A. That's my understanding, yes.

2 150 Q. And then, on the 15th of the 12th, '77, there is a
3 lodgement of ú52,500 from Kilnamanagh Estates?

4 A. Yes.

5 151 Q. And it is those two figures, when amalgamated together,
6 that provide for the transfer of ú350,000 to Jersey on
7 the 15th, I think it is, of December, of 1977?

8 A. 350,010.

9 152 Q. I think we will subsequently see that the ten pounds
10 subsequently related to transfer charges?

11 A. Mm-hmm.

12 153 Q. What you were being told by Messrs. Owens Murray, in so
13 far as that transaction was concerned, was that the
14 payment by - to Bedell & Cristin was, as we can see
15 from the Green Isle Holdings' book deposit account,
16 made out of the Green Isle Holdings' book deposit
17 account, but the main source of the money that went to
18 Jersey was the loan from Chase Bank?

19 A. That's right, yes.

20 154 Q. At paragraph A of the letter at page 373 - 3773, the
21 information supplied by Owens Murray is that, insofar
22 as the money that was paid to Vincent and Beatty was
23 concerned, that he will furnish information in relation
24 to the ú21,000, which was the deposit on the leasehold?

25 A. Yes.

26 155 Q. And insofar as the ú204,628 is concerned, that was also
27 paid out of Green Isle Holdings Trust?

28 A. Yes.

29 156 Q. And that payment, therefore, if we go back to page
30 3824, was made out of the deposit of ú275,000 that was

1 made on the 11th of the 11th, '77?

2 A. Yes.

3 157 Q. And that, apparently, was funded by ú175,000 from

4 Landsdowne Construction. And you are of the view,

5 ú100,000 from Kilnamanagh Estates?

6 A. The - I don't think I was able to procure much in the
7 way of records for Green Isle Holdings Trust, but from
8 my own reconstruction, I think 100,000 fit in as having
9 been received from Kilnamanagh Estates. That's my
10 recollection, but it would have been - as I say, it's
11 not based on the company's records, it's based on my
12 own reconstructions.

13 158 Q. If we go back to the letter at page 3773, at paragraph
14 2 of that letter you say that Mr. Owens is confirming
15 that the ú260,000 loan from Chase Bank was transferred
16 to Green Isle Holdings Trust's book deposit account,
17 and that, in fact, is the lodgement of ú260,000 on the
18 14th of December, 1977?

19 A. Yes.

20 159 Q. And that, in fact, formed the bulk of the funds that
21 were transferred to Jersey. Insofar as the request
22 for the paid cheque was concerned, the answer was that
23 the client couldn't retrace returned paid cheques?

24 A. Yes.

25 160 Q. I think the matters rested there until you took over
26 the correspondence on the 6th of December, 1984, at
27 page 5071. And you were looking for the statutory
28 books and records of Green Isle Holdings Trust from
29 Owens Murray. And that's your letter, I think, Mr.
30 Treacy?

1 A. Yes.

2 161 Q. You are writing in your capacity as official liquidator
3 of the company, and you are seeking the statutory books
4 and records from Owens Murray & Co.?

5 A. Yes.

6 162 Q. And I think subsequently you also wrote - sorry, you
7 received a response of the 18th of December, '84, at
8 page 3811, from Owens Murray & Company, that they were
9 not in possession of any of the statutory books and
10 records of the audit that they had carried out at the
11 company's premises, and they were not removed by them
12 from the premises?

13 A. Yes.

14 163 Q. At page 5073, on the 15th of January, '85, you sought a
15 copy of the Green Isle book deposit account. That's
16 your letter again, I think?

17 A. Yes.

18 164 Q. And I think that was furnished to you - at page 3823 -
19 by Owens Murray on the 18th of January?

20 A. Yes.

21 165 Q. And that, in fact, what was enclosed is at page 3824,
22 which is the copy of the book deposit we have seen?

23 A. Yes.

24 166 Q. Was the true nature of the transaction involving the
25 transfer of these ú350,000 to Jersey ever explained to
26 the Revenue?

27 A. No. When you say the "true nature", I presume you mean
28 the beneficial owners of the Jersey companies?

29 167 Q. Yes.

30 A. No, it wasn't. No.

1 168 Q. Was it ever indicated to the Revenue Commissioners the
2 nature of the relationship between, for example,
3 Bouganville and Rapallo that created the ú350,000 debt?

4 A. I have to say that - I would assume that if the
5 Inspector of Taxes dealing with the case had known who
6 the beneficial owners were, there would have been no
7 need to appoint me as a liquidator in the first place.

8 169 Q. The information that was furnished to the Revenue
9 Commissioners in the course of its inquiries in
10 connection with this particular part of the transaction
11 indicated, particularly in the Owens Murray letter of
12 the 17th of December, 1980, when they furnished a copy
13 of the solicitor's correspondence, seemed to indicate
14 that this was an arm's length transaction?

15 A. That's correct, yes.

16 170 Q. Now, in fact, the beneficial owners of Bouganville and
17 Rapallo were the same?

18 A. Yes.

19 171 Q. Some of the beneficial owners, or some of the owners
20 with an interest in Green Isle Holdings Trust, namely,
21 Mr. McGowan and Mr. Brennan, were the same. Mr.
22 Finnegan did not have any interest in Green Isle
23 Holdings Trust, and Mr. Brennan and Mr. McGowan also
24 had an interest in Lansdowne Construction Company.
25 Isn't that right?

26 A. When you say Mr. Finnegan didn't have an interest, I
27 wouldn't like to give a definitive reply on that. All
28 I can say is we know - he wasn't a statutory director
29 of Green Isle, or of Lansdowne, for that matter. The
30 other two gentlemen you mentioned were.

1 172 Q. Yes. The Tribunal has heard from both Mr. Brennan and
2 Mr. McGowan, and from Mr. Finnegan, that insofar as the
3 Irish companies were concerned, and insofar as Green
4 Isle was concerned, and Landsdowne Construction, Mr.
5 Finnegan did not have any beneficial interest or any
6 other interest, or any hidden interest in either of
7 those companies; that insofar as Mr. Finnegan's
8 involvement was concerned, it was limited to the Jersey
9 aspect of the transaction?

10 A. Yes, I understand what you are saying. Yes.

11 173 Q. But insofar as the Revenue were being furnished with
12 information, was any indication given to the Revenue
13 Commissioners by the auditors of the company that the
14 persons or parties involved in the Jersey aspect of the
15 transaction were connected to, and involved with the
16 Irish part of the transaction?

17 A. No. There was no such indication given.

18 174 Q. And, in fact, I suggest, Mr. Treacy, that the
19 correspondence that was furnished by Owens Murray on
20 the 17th of December, 1980, was correspondence from
21 which it could be inferred this was an arm's length
22 transaction?

23 A. Oh, yes, I agree, that that's what the correspondence
24 suggested. I don't want to be disingenuous about this.
25 I mean, the Revenue didn't know who the beneficiaries
26 were, but we believed we knew who they were.

27 175 Q. You will have to explain that, Mr. Treacy, because I
28 don't really understand that answer.

29 A. We didn't know who the beneficiaries of Bouganville and
30 Rapallo were.

1 .
2 Obviously, that information has only become recently
3 available.

4 176 Q. You were suspicious, is that the case --

5 A. Experienced businessmen don't pay ú350,000 for
6 something that's only worth ú10,000. So obviously we
7 believed that the directors, or certain directors of
8 Green Isle and Lansdowne must have benefited, but we
9 had no proof. And the correspondence that was
10 submitted suggested an arm's length deal.

11 177 Q. And is it the position that when you went to inquire
12 from this particular avenue of information in
13 connection with the ú350,000 transaction, that this is
14 the information with which you were furnished, and no
15 other information?

16 A. There was nothing furnished - what you've put up there
17 on the screen is what we got, and there was nothing
18 else to assist us to show that Messrs. Brennan and
19 McGowan were the beneficiaries, in part, of the 350,000
20 in the case of the Carrickbrennan transaction.

21 178 Q. If you had been informed, or you had been told that the
22 ultimate, or two of the ultimate recipients of the
23 money that was transferred to Jersey were themselves
24 involved in Landsdowne Construction as directors, and
25 in Green Isle Holdings Trust, what would the attitude
26 of the Revenue Commissioners have been?

27 A. Well, again, I have to separate our different functions
28 here. I mean, you are asking me what would the
29 inspector's attitude have been. I can't speak for the
30 inspector. I can only speak for myself as official

1 liquidator, because --

2 179 Q. If you - then if you answer the question - as official
3 liquidator --

4 A. As official liquidator, I have to ask myself, you know,
5 how the directors can reconcile that behaviour with the
6 fiduciary character of a director. There are certain
7 duties on directors to behave in a particular way. The
8 nature of a directorship, so far as I am aware, it has
9 a fiduciary character, and I can't understand how - or
10 I can't see how they could justify being in a position
11 to procure an asset at a particular price, and not be
12 procuring it at that particular price, but rather
13 taking it in at a much higher price, and, in effect,
14 pocketing the surplus at what appears, to me, to be a
15 personal profit. This is something that, if I
16 reactivate my inquiries, that I am going to have to
17 address.

18 180 Q. But the position would appear to be that, insofar as
19 the information that was furnished to the Revenue
20 Commissioners by the auditors of the company in
21 connection with the €350,000 transaction was to, in
22 effect, create a wall?

23 A. Absolutely.

24 181 Q. Beyond which the Revenue do not appear to have been
25 able to go?

26 A. No. The fact of using Jersey created a wall which was
27 insurmountable at the time.

28 182 Q. I think that it is correct to say that you did conduct
29 searches in the Companies Office or the Irish -
30 equivalent of the Companies Office in Jersey?

1 A. Yes.

2 183 Q. But they disclosed, as Mr. Howard has described to the
3 Tribunal, only the directors and the nominated
4 shareholders who were all holding their shares in trust
5 for the beneficial owners?

6 A. That's right, yes.

7 184 Q. So that there would be nothing on a search in the
8 Companies Office in Jersey that could have assisted you
9 in establishing or seeking to establish the true
10 beneficial ownership of the Jersey companies involved
11 in this transaction?

12 A. That's right.

13 185 Q. And it would appear to be, and correct me if I'm wrong
14 in suggesting this, that insofar as you were able to
15 take the matter or that the Revenue Commissioners were
16 able to take the matter, it was taken, but that it came
17 to a stage where no information was being furnished and
18 there was no avenue through which the information could
19 be obtained?

20 A. That's correct, yes.

21 186 Q. And this would appear to have occurred at a time when
22 it is - it must have been clear, I suggest, to Mr.
23 Owens of Owens Murray, that he himself was in
24 possession of most of the information in connection
25 with this ú350,000 transaction?

26 A. Well, I understand from what little I have heard of his
27 evidence, that he had the full picture.

28 187 Q. Yes. And that he was the person who had, in fact,
29 prepared the correspondence which he subsequently
30 provided to the Revenue to substantiate the arm's

1 length nature of this transaction?

2 A. Yes.

3 188 Q. While he appears to have been in possession of the true
4 information in relation to it?

5 A. That's correct.

6 189 Q. I think that you also wrote to Mr. Joseph McGowan and
7 Mr. Tom Brennan in connection with this transaction?

8 A. That's right, yes.

9 190 Q. I think that your records show that you did not receive
10 from, I think Mr. Joseph McGowan, any information or
11 response to your inquiries?

12 A. I couldn't trace a response from Mr. McGowan. And I
13 didn't pursue it because I got a response from Mr.
14 Brennan.

15 191 Q. From Mr. Brennan. And I think you wrote to Mr. Brennan
16 initially - sorry, I beg your pardon, you wrote to Mr.
17 Brennan on the 6th of February, 1985, after your
18 appointment as official liquidator?

19 A. I had been a - I had spoken to Mr. O'Connell Miley, and
20 he subsequently wrote to me, and thereafter I wrote to
21 Mr. Brennan, who replied to me.

22 192 Q. We'll come to deal with the correspondence between
23 Miley & Miley and yourself and the Revenue
24 Commissioners in connection with this transaction.

25 .

26 But you did raise queries from Mr. Brennan?

27 A. Yes, that's right.

28 193 Q. And if we would have page 3837, please.

29 .

30 You wrote on the 6th of February, 1985, and if we could

1 deal with the last paragraph, you set out there:

2 .

3 "I understand that Green Isle purchased a Jersey
4 company called Bouganville Investments Limited
5 (Bouganville) by way of a payment of ú12 for the entire
6 share capital together with the payment of ú350,000 in
7 connection with Bouganville's liabilities, and that the
8 effect of the acquisition of Bouganville resulted
9 solely in Green Isle acquiring the freehold interest in
10 the Carrickbrennan site. Please confirm that the
11 foregoing is a correct account of the purchase of
12 Bouganville and state the circumstances of the
13 acquisition of that freehold interest which appeared in
14 Bouganville's audited accounts for the period ended
15 21st October 1977 in the sum of ú10,000, or advise."

16 A. Yes.

17 194 Q. And that was really the query that you were raising
18 with Mr. Brennan?

19 A. Yes.

20 195 Q. And I think Mr. Brennan did initially write back to you
21 on the 27th of February, 1985, at page 3805, saying
22 that the accountants were checking the position as
23 disclosed by your letter?

24 A. Yes.

25 196 Q. And I think that the Revenue sent a solicitors letter
26 ultimately to Mr. Brennan in May of '85, because he
27 hadn't responded, at page 4864. It's a letter from the
28 Revenue solicitor to Mr. Brennan, seeking a reply to
29 your letter of the 6th of February.

30 .

1 And at page 4865, Mr. John Caldwell, who was acting for
2 Mr. Brennan, seeks the information from Mr. Owens, so
3 as to enable Mr. Brennan to reply to your letter.

4 .
5 And I think ultimately Mr. Owens did provide a reply to
6 Mr. Tom Brennan at page 4861, where he encloses a draft
7 of a reply to the liquidator dated the 6th of February
8 "relating to Green Isle Holdings Trust," asking him to
9 show it to John Caldwell "but do not delay in
10 replying."

11 .
12 At 4862 is the draft Mr. Owens is referring to.

13 .
14 At page 3867, Mr. Caldwell sends on to you as official
15 liquidator Mr. Brennan's original letter to you.

16 .
17 And he hopes that that clarifies the position. And Mr.
18 Brennan, at page 3868, responds to your original
19 request. Is that right?

20 A. Yes. Well, of course, all I saw was a letter from Mr.
21 Caldwell enclosing the letter from Mr. Brennan. I
22 didn't see the intervening correspondence between their
23 advisers.

24 197 Q. Yes. It would appear that what happened is that Mr.
25 Brennan sought the advice of Mr. Owens and Mr. Caldwell
26 in connection with replying to you, and that the reply
27 was, in fact, drafted by Mr. Owens, furnished to Mr.
28 Caldwell, and sent in, signed by Mr. Brennan, and sent
29 in by Mr. Caldwell to you?

30 A. Yes.

1 198 Q. And the actual reply is at page 3868. And Mr. Brennan

2 sets out that this is a response to your letter of the

3 6th of February '85:

4 .

5 "I confirm that J McGowan acting in trust contracted to

6 buy the leasehold of Monkstown convent from the Sacred

7 Heart nuns. The benefit of the contract was taken over

8 by Green Isle Holdings Trust who completed and paid for

9 the purchase.

10 .

11 The freehold of the Monkstown convent was owned by

12 Bouganville Investments Limited. Green Isle could not

13 develop the site for houses without having full title.

14 Our solicitors negotiated the price of the freehold and

15 the total price of ú560,000 plus costs for the freehold

16 and leasehold, for 63 acres was considered reasonable

17 having regard to the location.

18 .

19 I do not understand the mechanics of how Green Isle

20 acquired the freehold, but I do know it cost ú350,000.

21 I understand that full particulars were supplied to the

22 Inspector of Taxes by the auditors."

23 .

24 Now, I think, first of all, that where Mr. Brennan

25 refers to 63 acres, he should have been referring to 63

26 sites?

27 A. That's right, yes.

28 199 Q. But Mr. Brennan was himself a one-third beneficial

29 owner of Bouganville and Rapallo?

30 A. That's right.

1 200 Q. Was that disclosed to you?

2 A. No, it wasn't.

3 201 Q. Okay. He says that the solicitors, "our solicitors
4 negotiated the price of the freehold", the solicitors
5 who acted in the freehold were Miley & Miley and Bedell
6 & Cristin, solicitors in Jersey?

7 A. That sentence doesn't seem to be correct. My
8 understanding is that there were no solicitors involved
9 in negotiating the prices.

10 202 Q. Of the freehold?

11 A. Of either the freehold or the leasehold. I am open to
12 correction on that.

13 203 Q. That insofar as the price in connection - of ú350,000
14 in connection with the freehold was concerned, this was
15 a preordained or set up scheme or system by Mr. Hugh
16 Owens?

17 A. That's my understanding now, yes.

18 204 Q. And we've seen from the Owens' correspondence that we
19 looked at this morning, where Mr. Owens sets out in
20 general the scheme and then in particular the
21 correspondence together with draft letters?

22 A. Yes.

23 205 Q. The final version of which were ultimately produced to
24 you, or, sorry, produced to the Investigation Branch of
25 the Revenue Commissioners?

26 A. Yes.

27 206 Q. So that it would appear this correspondence was drafted
28 by Mr. Owens, and he refers there to the solicitors
29 having negotiated the price for the freehold?

30 A. Yes.

1 207 Q. But we know that negotiation was a paper negotiation,
2 whereby Mr. Owens had himself drafted the
3 correspondence from Miley & Miley to Bedell & Cristin,
4 and the correspondence from Bedell & Cristin back to
5 Miley & Miley?

6 A. Whatever about a negotiation in relation to the
7 leasehold, I am not aware of any negotiation in
8 relation to the freehold, apart from the negotiation,
9 presumably, that occurred, which resulted in a price of
10 10-and-a-half-thousand pounds or ú10,000, and then
11 10-and-a-half-thousand pounds.

12 208 Q. This is the original purchase of the De Vesci Estate of
13 ú10,000, but insofar as the ú350,000 is concerned,
14 there was, I suggest, no negotiation. The price had
15 been agreed and a series of correspondence was put in
16 place?

17 A. Yes. I don't see how there could have been a
18 negotiation, because I don't see how you can negotiate
19 with yourself, effectively.

20 .

21 CHAIRMAN: Would this be a convenient point in time to
22 break?

23 .

24 MS. DILLON: Yes, sir.

25 .

26 CHAIRMAN: It's a matter for your convenience.

27 .

28 MS. DILLON: Yes, sir, I have finished that
29 correspondence, sir.

30 .

1 CHAIRMAN: We'll break for 20 minutes.

2 .

3 THE TRIBUNAL THEN ADJOURNED FOR A SHORT RECESS AND

4 RESUMED AGAIN AS FOLLOWS:

5 .

6 209 Q. MS. DILLON: Good afternoon, Mr. Treacy.

7 A. Good afternoon, ma'am.

8 210 Q. If I could move on to deal, then, with your

9 correspondence and communications, still in relation

10 with the ú350,000, with Messrs. Miley & Miley,

11 solicitors.

12 .

13 I think your initial correspondence was a letter of the

14 17th of February, 1985, at page 3871. And you

15 addressed - sorry, 3817. I beg your pardon.

16 .

17 You addressed this correspondence to Mr. Daniel

18 O'Connell Miley. And you were writing in your capacity

19 as official liquidator. And you set out in that, at

20 the second paragraph:

21 .

22 "My records show that Miley & Miley acted for Green

23 Isle in connection with the acquisition of the freehold

24 interest in the Carrickbrennan Estate at Monkstown,

25 County Dublin."

26 A. Yes.

27 211 Q. Now, in fact, by this point in time, you had been

28 furnished with the information that had been supplied

29 by Mr. Hugh Owens in his letter, in which he had

30 exhibited, or furnished to you the correspondence

1 passing between Miley & Miley, for Green Isle Holdings
2 Trust Company, and Bedell & Cristin, for Bouganville in
3 connection with the ú350,000 deal?

4 A. Yes.

5 212 Q. And that correspondence - we've seen it already this
6 morning; that while acting for Green Isle Holdings
7 Trust, Miley & Miley offered to buy the freehold, but
8 Bedell & Cristin said that they would sell the shares
9 in Bouganville, subject to them taking over the debt to
10 Rapallo of ú350,000?

11 A. Yes.

12 213 Q. And the deal was ultimately concluded on that basis?

13 A. Yes, that's right.

14 214 Q. I think you received a response from Mr. Daniel
15 O'Connell Miley on the 8th of February, 1985. At page
16 3843.

17 .
18 And in this, in relation to this issue, Mr. Miley says
19 that: "This firm did not act for Green Isle Holdings
20 Trust Company Limited in connection with the
21 acquisition of the Carrickbrennan Estate at Monkstown.

22 I believe it was Vincent and Beatty Solicitors who
23 acted."

24 .
25 Now, what you had, in fact, said in your letter, was
26 that Miley & Miley had acted for Green Isle in
27 connection with the acquisition of the freehold
28 interest?

29 A. Yes.

30 215 Q. And what Mr. Daniel Miley says in his letter of the 8th

1 of February, '85, he doesn't appear to differentiate in
2 that paragraph between the freehold and the leasehold,
3 isn't that right?

4 A. Yes.

5 216 Q. And he says it was Vincent and Beatty Solicitors that
6 did, in fact, act, but in connection with the nuns'
7 interests for the sale of the leasehold?

8 A. Yes.

9 217 Q. I think you wrote again, furnishing some further
10 specific information, to Messrs. Miley & Miley on the
11 13th of February, 1985, at page 3845. And you referred
12 to Daniel O'Connell Miley's letter. And you set out at
13 paragraph 1:

14 .
15 "I note the contents thereof, but I would respectfully
16 suggest that you re-check your records in regard to the
17 matter of the freehold interest in the Carrickbrennan
18 Estate at Monkstown. That freehold interest was
19 acquired by way of the purchase of another company."

20 .
21 And the second part of the letter deals with a separate
22 transaction?

23 A. Yes.

24 218 Q. I think, again, Messrs. Miley & Miley responded to that
25 letter, initially on the 5th of March - yes. At page
26 3853.

27 .
28 On the 5th of March, 1985, they deal, in the first and
29 second paragraph - in the second paragraph with the
30 ú672,000, but in the third paragraph of the letter they

1 say:

2 .

3 "With regard to your letter of the 13th ultimo
4 addressed to Mr. Daniel O'Connell Miley, it would seem
5 as if the two sums of ú200,000, both of which came from
6 Chase and Bank of Ireland, formed part of the payment
7 of ú672,013."

8 A. Yes.

9 219 Q. Now, that reply, in fact, relates to the second query
10 in your letter of the 13th of February, which was to do
11 with the transaction involving Arippe, and the
12 ú672,000?

13 A. Yes.

14 220 Q. And in that reply Messrs. Miley & Miley do not appear
15 to have addressed the query that you had raised in
16 relation to the ú350,000?

17 A. Yes.

18 221 Q. Right. I think you then wrote, on the 26th of March,
19 1985, again. And at - at page 3861 you wrote to
20 Messrs. Miley & Miley, solicitors. And at paragraph A
21 you set out:

22 .

23 "As previously requested in my letters dated the 17th
24 January, 1985, and the 13th of February, 1985,
25 addressed to your Mr. D Miley, please let me have
26 copies of all documentation in connection with Green
27 Isle's acquisition of the freehold interest in the
28 Carrickbrennan Estate at Monkstown, County Dublin.
29 That freehold interest was acquired by way of the
30 acquisition of another company."

1 .
2 So you are here, in this correspondence, repeating your
3 inquiry as liquidator of Lansdowne Construction
4 Company, and you are asking them for whatever
5 information they have in connection with the purchase
6 of the freehold?

7 A. Yes.

8 222 Q. You received a response to that on the 6th of January,
9 1986, and at page 3876. And it refers to your earlier
10 correspondence, starting with your letter of the 26th
11 of March, 6th of June and 7th of May, and a letter from
12 the Revenue solicitor of the 4th of November, 1985.

13 .
14 And I think the later letters were reminders from you
15 to Messrs. Miley & Miley to reply to your earlier query
16 of the 26th of March, 1985?

17 A. Yes.

18 223 Q. And at paragraph A of that letter Messrs. Miley & Miley

19 set out:

20 .
21 "As far as we are aware, we did not act for Green Isle
22 Holdings Trust Limited, and are unable to locate the
23 documentation requested. We do, however, have a
24 Booklet of Title which was prepared for the Estate, and
25 there is a conveyance dated the 29th of December, 1977,
26 with this booklet made between Laurence Anthony Wheeler
27 and Green Isle Holdings Trust Limited. We can send you
28 a copy of this deed, if you wish."

29 .
30 And further down in the - after paragraph D they say:

1 .
2 "We regret that the answers raised to" - "We regret
3 that the answers to the questions raised are perhaps
4 not as detailed as you would have liked them to be.
5 The answers are based mainly on memory. Some of the
6 files relating to transactions for Landsdowne
7 Construction have been disposed of, and the files which
8 we have left would require many days work in retrieving
9 and going through them in the hope of extracting more
10 precise information. We regret that we could not
11 undertake this operation without remuneration."

12 A. Yes.

13 224 Q. But if we go back up to paragraph A, we see that Miley
14 & Miley are setting out, that as far as they know, they
15 did not act for Green Isle Holdings Trust Company
16 Limited?

17 A. Yes.

18 225 Q. Now, when you had been furnished with the information
19 from Messrs. Owens Murray, and the correspondence
20 evidencing the arrangement, or the agreement between
21 Bouganville and Green Isle Holdings Trust, that had
22 been correspondence passing between Miley & Miley, for
23 Green Isle Holdings, and Bouganville Investments
24 represented by Bedell & Cristin?

25 A. Yes.

26 226 Q. And I think, if we look, for example, at page 153,
27 which is the original letter set out by Mr. Owens that
28 we looked at this morning, and if we move on to deal
29 with the correspondence involving Miley & Miley, and we
30 look at page 160. This is a letter from Miley & Miley,

1 dated the 27th of July, 1977, setting out:

2 .

3 "Dear Sirs, we have been instructed by Green Isle
4 Holdings Trust Limited to write to you in connection
5 with the above premises."

6 .

7 And then, "Apparently, your clients" - Bedell &
8 Cristin's clients - "are the owners of the fee simple
9 interest in the land, and we will be obliged if you
10 will let us know whether they are prepared to sell it,
11 and if so, perhaps you would contact us to discuss
12 terms."

13 A. Yes.

14 227 Q. The rest of the correspondence that we looked at
15 briefly in relation to this transaction shows Miley &
16 Miley for Green Isle Holdings Trust ultimately
17 concluding the deal with Bouganville Investments
18 Limited, and the transfer of the ú350,000?

19 A. Yes.

20 228 Q. Can you assist at all as to how it was that when you
21 raised your queries with Messrs. Miley & Miley
22 Solicitors, in connection with this transaction, that
23 their response was that they had not acted for Green
24 Isle Holdings Trust Limited?

25 A. My recollections on that correspondence now are not
26 clear.

27 229 Q. But you clearly had - excuse me, Mr. Treacy, one
28 moment.

29 .

30 It would appear from the correspondence that we

1 produced this morning, that the purchase and the terms
2 of the sale or the agreement between Bouganville and
3 Green Isle was conducted by Miley & Miley on behalf of
4 Green Isle, and concluded by them, and it was conducted
5 by Bedell & Cristin on behalf of Bouganville?

6 A. Yes.

7 230 Q. And, in fact, if we look at the ultimate part of this
8 deal, we will see that the agreement is, in fact,
9 concluded by a letter dated the 9th of August, '77, at
10 page 162, where Miley & Miley confirm that their
11 clients, who are earlier identified as Green Isle
12 Holdings Trust Limited, would be agreeable to buy the
13 shares in Bouganville Investments Limited "subject to
14 the approval of the form of contract, balance sheet and
15 price to be paid for the shares."

16 .
17 Ultimately, in the correspondence we have seen, where
18 the share certificates were sent by Bedell & Cristin to
19 Messrs. Miley & Miley in conclusion of this contract?

20 A. Yes.

21 231 Q. In fact, if we look at a letter, page 182, we see, by
22 letter dated the 30th of November, addressed to Miley &
23 Miley, and it's headed "Green Isle Holdings Trust
24 Limited and Bouganville Investments Limited:"

25 .
26 "We thank you for your letter of the 10th November, and
27 acknowledge receipt of your cheque for ú12 and the
28 guarantee."

29 .
30 The guarantee was a guarantee given in connection with

1 the payment of the debt by Rapallo - to Rapallo?

2 A. Yes.

3 232 Q. "We enclose a share certificate showing Green Isle
4 Holdings Trust Limited as the owner of six shares in
5 Bouganville Investments Limited, and two Declarations
6 of Trust in favour of the same company, executed by the
7 two nominee shareholders.

8 .

9 We confirm that the present directors will remain for
10 the time being.

11 .

12 As you are perhaps aware, Bouganville is now in the
13 course of liquidation, and we would be grateful if you
14 would arrange for Green Isle Holdings Trust Limited to
15 execute the two proxy forms to enable members of the
16 staff of this firm to attend the two meetings required
17 to effect the liquidation, returning the forms to us as
18 soon as possible."

19 .

20 In fact, that did occur.

21 .

22 So it would appear, from the correspondence that has
23 been produced to the Tribunal to date, that the
24 acquisition of the freehold interests in the
25 Carrickbrennan Estate, which was effected by way of the
26 purchase of the shares in Bouganville, was carried out
27 by Miley & Miley on behalf of Green Isle Holdings
28 Trust?

29 A. Yes.

30 233 Q. Ultimately, other solicitors may have been retained for

1 other purposes?

2 A. Yes.

3 234 Q. In those circumstances, can you assist the Tribunal as
4 to why it was that Mr. Stephen Miley on the 6th of
5 January, 1986 - I understand that Mr. Stephen Miley is
6 the author of the letter at page 3876 - informed the
7 Tribunal that they had not acted - informed the Revenue
8 Commissioners that they did not act for Green Isle
9 Holdings Trust Limited?

10 A. I can't --

11 235 Q. It would appear that Messrs. Miley & Miley would have
12 had available to them the correspondence and their file
13 in relation to their dealings with Bedell & Cristin in
14 relation to the acquisition of the freehold interest
15 for ú350,000?

16 A. Yes.

17 236 Q. Because - clearly there was a file in existence,
18 because the correspondence that was furnished to you,
19 or to the Inspector in a different capacity by Owens
20 Murray, showed the correspondence between Bedell &
21 Cristin and Miley & Miley?

22 A. Yes.

23 237 Q. That, in fact, is the correspondence that was offered
24 to the Revenue Commissioners, as showing it was an
25 arm's length, or assisting in showing that it was, in
26 fact, an arm's length transaction?

27 A. Yes.

28 238 Q. Can you think at all of any reason as to why Messrs.
29 Miley & Miley would so have informed you as liquidator
30 that they hadn't, in fact, acted?

1 A. Not offhand, no.

2 239 Q. If we could turn to deal, Mr. Treacy, with the second
3 transaction that was the subject matter of your
4 inquiries, which was the 6272 - ú672,000 transaction
5 involving Arippe Investments. You are familiar with
6 this transaction?

7 A. Yes. Yes.

8 240 Q. This was the Newtownpark Avenue transaction, isn't that
9 right?

10 A. That's right, yes.

11 241 Q. And I think you established from your inquiries, or it
12 had been established by the Revenue Commissioners from
13 its inquiries, that Arippe Investments was a Jersey
14 company, and that in 1978 it granted a licence to
15 Lansdowne Construction Company to build on 48 sites at
16 Richmond, Newtownpark Avenue?

17 A. Yes.

18 242 Q. This provided for a payment of ú672,000 to Arippe
19 Investments Limited?

20 A. Yes.

21 243 Q. That ú672,000 was comprised of two sums of money;
22 ú624,000, by way of an interest-free loan to Arippe,
23 and the balance by way of a licence agreement?

24 A. Yes.

25 244 Q. Now, you were suspicious about the circumstances of
26 this payment?

27 A. Yes.

28 245 Q. Why?

29 A. Because it was paid to a Jersey company.

30 246 Q. And were you aware of any connection between Lansdowne

1 Construction and this Jersey company?

2 A. No.

3 247 Q. Were you of the view that there might have been a
4 connection?

5 A. Well, I believed that the directors were connected with
6 the Jersey company, but I didn't know that.

7 248 Q. And did you set about, as you had earlier set about in
8 relation to the ú350,000 transaction, seeking to
9 establish whether there was, in fact, any such
10 connection?

11 A. So far as I recollect, I made inquiries in Jersey to
12 see what information we could get, but that didn't
13 prove successful, as one would have expected.

14 249 Q. And I think that you were aware also that the
15 Investigation Branch of the Revenue Commissioners had
16 themselves been involved in conducting inquiries with
17 Lansdowne Construction Company Limited and its
18 auditors prior to its liquidation in connection with
19 this transaction?

20 A. Yes.

21 250 Q. And that that documentation was made available to you?

22 A. Yes.

23 251 Q. So that the information and the - insofar as the matter
24 had been advanced in terms of information gathering,
25 you were then able to take up with the information that
26 you had?

27 A. Yes, that's right. Yes.

28 252 Q. So I think that initially the matter - somewhat
29 similarly to the ú350,000 transaction, arose as a
30 result of the submission of the Lansdowne Construction

1 Company accounts for the year ended the 31st of
2 December, 1978?

3 A. Yes.

4 253 Q. And in that year Lansdowne Construction Company
5 reported a loss?

6 A. Yes.

7 254 Q. If we have page 5081, please.

8 .

9 And again, Owens Murray were the auditors of Lansdowne
10 Construction. You will note in the second paragraph
11 that they give the same view as they had given in
12 relation to the earlier accounts, which were for the
13 year ended 1977, that we looked at in connection with
14 the ú350,000 transaction. And they say that the,
15 "accounts give a true and fair view of the state of
16 affairs at the 31st of December, 1978, and of its loss
17 for the year ended on that date."

18 .

19 If we move down through the document, you will see that
20 it's an Owens Murray & Company document, dated the 26th
21 of July, 1979?

22 A. That's right.

23 255 Q. Now, in the accounts that were furnished, at page 5083
24 of the accounts, which themselves run from 5078, I
25 think, through to 5086. At page 5083, in setting out
26 the current assets of Lansdowne Construction, there is
27 an annotation bearing "Site fines prepaid - ú672,000"?

28 A. Yes.

29 256 Q. And written beside that is the number "19"?

30 A. Yes.

1 257 Q. And in handwriting beside that there is a handwritten
2 note "Arippe"?

3 A. Yes.

4 258 Q. The number 19 that's attributable there is, in fact, a
5 number relating to queries that were raised by the
6 Investigation Branch of the Revenue Commissioners when
7 they received this - these accounts. And all the way
8 through the correspondence we will see that information
9 that is sought and furnished is dealt with under the
10 heading of number 19, in connection with this
11 transaction?

12 A. Yes.

13 259 Q. The Revenue raised inquiries on the 22nd of September,
14 1980, in - at page 3732. There is a better copy of
15 this at 5101.

16 .

17 And if we turn to page 5102, please. The second page,
18 if we move down to number 19 on that, it says:
19 "Site fines prepaid - ú672,000. To whom paid? And on
20 what date? What are the site numbers?"

21 A. Yes.

22 260 Q. Do you see that?

23 A. Yes.

24 261 Q. Now, the ú672,000 transaction, Mr. Treacy, the Tribunal
25 has heard was an accumulation of funds that were
26 transferred to Jersey for the benefit of a company
27 called Arippe Investments Limited, the beneficial
28 owners of which were Mr. McGowan, Mr. Finnegan and Mr.
29 Brennan?

30 A. Yes.

1 262 Q. The funds were assembled and accumulated in the
2 Lansdowne Construction Company client account of Miley
3 & Miley from various sources, including Chase and Bank
4 of Ireland, Northern Bank, Kilnamanagh Estates?

5 A. That's right.

6 263 Q. And the funds were transferred out in December of that
7 year to Jersey, and distributed, after deductions had
8 been made?

9 A. Was it December or November? I thought it was
10 November.

11 264 Q. It may have been November.

12 A. I think it was November, according to the Miley & Miley
13 client account.

14 265 Q. Yes. In any event, the transaction was transferred out
15 for the benefit of a company called Arippe Investments
16 Limited?

17 A. That's right. Yes.

18 266 Q. And the agreement that had been entered into between
19 Lansdowne Construction and Arippe Investments Limited
20 was a form of a licence agreement which provided a
21 particular sum for the licence, and an interest-free
22 loan of ú624,000 from Lansdowne to Arippe?

23 A. Yes.

24 267 Q. And that loan was to be repaid on foot of - as the
25 houses were sold, the loan was to be repaid, in its
26 simplest form?

27 A. Yes.

28 268 Q. The information that was furnished, then, by Mr. Owens
29 to the Revenue Commissioners on foot of that inquiry is
30 a letter dated the 15th of December, 1980. At page

1 3749.

2 .

3 And if we move to No. 19 at page 3751, we see that no
4 information is furnished at No. 19, because he says
5 that "details will follow".

6 A. Yes.

7 269 Q. But at No. 23, details are given of a loan of ú400,000
8 from Chase and Bank of Ireland?

9 A. Yes.

10 270 Q. The Investigation Branch wrote again on the 8th of
11 January, 1981, at page 3758. But there may be a better
12 copy of this available. At 5104 there is a better copy
13 of this available.

14 .

15 And at 5104, if we move down to the heading number 19,
16 you will see that the Investigation Branch are again
17 seeking the information.

18 A. Yes.

19 271 Q. And at page 3762, on the 28th of January, 1981, and at
20 page 3763, at No. 19, dealing with site fines prepaid,
21 you will see that certain information is given there in
22 relation to the combination of sums that were
23 amalgamated to produce the figure of ú672,000?

24 A. Yes.

25 272 Q. Now, it is important to bear in mind that the question
26 that was asked by the Revenue Commissioners, and which
27 had been written - about which they had written on two
28 other occasions to Messrs. Owens of Owens Murray &
29 Company, was to whom the money was paid, and on what
30 date?

1 A. Yes.

2 273 Q. The information that is furnished in No. 19 is the
3 source, I suggest, of the monies?

4 A. That's correct, yes.

5 274 Q. In other words, it was not indicated to the
6 Investigation Branch of the Revenue Commissioners at
7 this date to whom the funds had, in fact, been paid?

8 A. That's right.

9 275 Q. Okay. Mr. Owens, as auditor for Lansdowne
10 Construction, identified a number of sums. Initially,
11 he identified, from the Northern Bank, the ú150,000?

12 A. Yes.

13 276 Q. And I think subsequently, when you were appointed
14 liquidator of the - liquidator of Lansdowne
15 Construction Company, that you, yourself, wrote to
16 Northern Bank and were furnished with a copy of the
17 loan cheque?

18 A. I think so, yes.

19 277 Q. And that loan cheque indicated that the payment had, in
20 fact, been paid to Miley & Miley Solicitors. If you
21 look at page 3815 in connection with that.

22 .

23 This is Northern Bank Limited telling you that in
24 November 1978 the above company was granted a loan of
25 ú150,000, "which was drawn down and paid to Miley &
26 Miley."

27 A. Yes.

28 278 Q. "As per photocopy draft." And the draft is at 3816?

29 A. Right.

30 279 Q. And that is a draft in favour of Miley & Miley?

1 A. Okay.

2 280 Q. I think insofar as the second transaction - if we go
3 back to page 3763.

4 .

5 Dealing with No. 19, the second amount that's
6 identified by Mr. Owens there is a sum of ú400,000,
7 which is attributable to a loan from Chase Bank?

8 A. Yes.

9 281 Q. And two dates appear to be given there in connection
10 with that loan, which is the 3rd of November, and the
11 28th of November, '78?

12 A. Yes.

13 282 Q. And I think you again wrote to Chase Bank, after you
14 were appointed liquidator, seeking particulars in
15 connection with these two loans, isn't that right?

16 A. Yes.

17 283 Q. And you were told on the 7th of February, 1985, at page
18 3840, by Chase Bank, that both payments of ú200,000
19 were lodged in the account of Miley & Miley Solicitors
20 at Algemene Bank Nederland?

21 A. Yes.

22 284 Q. And you were furnished with photocopies of the two paid
23 cheques. And the back of the two paid cheques, and the
24 paid cheques are at 3841?

25 A. Yes.

26 285 Q. If you scroll down the page, you see the second cheque
27 for ú200,000.

28 .

29 And at page 3842, you see the back of the paid cheques
30 which both refer to "Pay Miley & Miley Solicitors", if

1 you go down through that one signed by Tom Brennan and
2 the second one, I think, is signed by Kenneth Woodley,
3 then a director of Lansdowne?

4 A. That's right, yes.

5 286 Q. Insofar as the third entry at page 3763 is concerned,
6 the payment of ú122,000 is attributed as being from the
7 Northern Bank current account?

8 A. Yes.

9 287 Q. I think at page 3855, Miley & Miley subsequently
10 produced to you a copy of their ledger card in
11 connection with this transaction?

12 A. Yes.

13 288 Q. If you could scroll it down further, please. Yes.

14 .

15 And you will see there - sorry, if you just bring it
16 back to the centre where it starts, please. Thank you.

17 .

18 You will see there an entry in relation to Chase and
19 Bank of Ireland, ú200,000, on November the 6th?

20 A. Yes.

21 289 Q. Followed by "Reid & McNabb - ú100,000"?

22 A. Yes.

23 290 Q. Followed by "Northern Bank - ú150,000. Chase and Bank
24 of Ireland - ú200,000", which is the second Chase
25 cheque?

26 A. Yes.

27 291 Q. And, "Landsdowne Construction - ú22,000"?

28 A. Yes.

29 292 Q. Those amalgamate to form the sum of ú672,000?

30 A. That's right.

1 293 Q. And it would appear from documentation that the
2 Tribunal has been furnished with, by Messrs. Reid &
3 McNabb, that that sum of ú100,000 was a payment that
4 was made to Messrs. Miley & Miley on foot of a cheque
5 drawn by Reid & McNabb on the client account of
6 Kilnamanagh Estates in Reid & McNabb, solicitors. And
7 that the ultimate source of those funds was, in fact,
8 Allied Irish Banks or Allied Irish Finance, I cannot
9 recollect which at the moment.

10 .

11 Were you aware of that?

12 A. I don't recall it, no.

13 294 Q. I think that subsequent to the receipt of this
14 information from Messrs. Owens Murray - sorry, if we
15 could go back to the page at 3763.

16 .

17 The description of this payment, the ú672,000 and its
18 accumulation, is under the heading "Site fines
19 prepaid."

20 A. Yes.

21 295 Q. As it had appeared in the audited accounts, isn't that
22 correct?

23 A. That's right.

24 296 Q. What does "Site fines prepaid" mean, Mr. Treacy?

25 A. Well, obviously if there is an agreement to pay a
26 particular amount, and it's paid in advance, that's
27 what it would suggest.

28 .

29 Now, I have to say, I don't want to be disingenuous
30 about this, I mean, we saw the agreement --

1 297 Q. Yes?

2 A. -- so I knew what was in the agreement. I knew that
3 the agreement comprised mainly of a loan. The heading
4 in the balance sheet was described as "Site fines
5 prepaid", and I think that's the way it was picked up
6 in correspondence.

7 298 Q. Yes.

8 A. And I didn't choose to alter the heading to reflect the
9 correct - the correct amount of monies, if you like.
10 Possibly, the heading might more precisely have read,
11 "loan and amount in respect of part payment of site
12 fines", or some such more precise description.

13 299 Q. Yes.

14 A. My interest was not the heading, but it was the
15 destination of the monies.

16 300 Q. Except that - I accept that, but, in fact, the
17 ú672,000, from the documentation that you looked at,
18 comprised an interest-free loan from Lansdowne to
19 Arippe of ú624,000, and the balance of ú48,000,
20 approximately, was paid in respect of a licence fee to
21 allow Lansdowne enter on to the lands and start
22 building houses?

23 A. That's right, yes.

24 301 Q. You will see, again, in response to that letter on the
25 9th of February, '81, at page 3765 - in fact, there is
26 a clearer copy at 5106. I think we need page 5107.
27 .
28 You will see again, at No. 19, "Site fines prepaid -
29 ú672,000", where the Investigation Branch are repeating
30 their inquiry. They say that their query was, "To whom

1 paid and on what date? What are the site numbers?"

2 What, in fact, had been furnished by Owens Murray was
3 the source of the monies?

4 A. Yes.

5 302 Q. That was replied to by Owens Murray on the 26th of
6 March, 1981, page 3774, in which the information is
7 furnished - sorry, at the second page, 3775. At No.
8 19, under the heading "Site fines prepaid" it's "Paid
9 to Arippe Investments. Site numbers 1 to 48, Albany,
10 Newtownpark Avenue."

11 A. Yes.

12 303 Q. The date is not furnished, isn't that right, which had
13 been one of the queries?

14 A. That's right. Yes.

15 304 Q. And there is no indication in that letter that Arippe
16 Investments was a Jersey company?

17 A. Not in that letter, but I can't remember now whether I
18 knew that it was, or whether it was known at the time.

19 305 Q. Well --

20 A. Anyway, it's not in that letter.

21 306 Q. I suggest you wouldn't have known, because the date of
22 this letter is the 26th of March, 1981, and you, in
23 fact, hadn't been appointed official liquidator at that
24 stage?

25 A. Yes. That's correct. I don't know if the inspector -
26 I don't know whether or not the inspector knew at the
27 time whether it was a Jersey company or not. I don't
28 know.

29 307 Q. In any event, the Investigation Branch were not
30 satisfied with the response that had been furnished in

1 that letter, and they wrote again on the 29th of
2 November, 1983, at 5108.

3 .
4 And again, looking at Item No. 19, under the heading
5 "Site fines prepaid: Let me have copies of all
6 relevant documents, including the audited accounts of
7 Arippe Investments."

8 .
9 At page 3787, Owens Murray replied to this by saying:

10 .
11 "Since we last wrote to you over two and a half years
12 ago, the company has ceased to trade, and so far as we
13 are aware is deeply insolvent. We are unable to
14 undertake any further work on behalf of the company."

15 A. Yes.

16 308 Q. Now, again it would appear, if the Investigation Branch
17 were seeking the audited accounts of Arippe
18 Investments, they would not have known it was a Jersey
19 company?

20 A. They may not have at the time, no.

21 309 Q. That would suggest - I mean, they would only have been
22 seeking audited accounts of Irish companies?

23 A. Well, not necessarily.

24 310 Q. Not necessarily?

25 A. No. I mean, they could have asked the question,
26 whatever about their entitlement to receive.

27 311 Q. Yes. But in any event, it wasn't furnished?

28 A. It wasn't furnished, no.

29 312 Q. You then took over dealing with this matter, when you
30 were appointed liquidator. And you again wrote to

1 Owens Murray on the 11th of December, '84, at page
2 3809. And you sought all of the documentation that
3 Messrs. Owens Murray had examined in order to verify
4 the asset at ú672,000?

5 A. Yes.

6 313 Q. At 3810, Owens Murray replied to that, and said that
7 they examined a form of site fine agreement "in support
8 of the payment of ú672,000. The validity of the
9 substance of the agreement was confirmed by subsequent
10 sales by Lansdowne Construction Company Limited to
11 third party purchasers of houses."

12 A. Yes.

13 314 Q. The site fine agreement that they are referring to
14 there is, that the licence agreement between Arippe and
15 Lansdowne Construction --

16 A. I think that's what it was, yes. I know I saw some
17 agreements.

18 315 Q. And this is the document - I think that we have seen
19 this document, you may not have seen it recently, at
20 3984 and 3985. At 3984, the consideration is ú48,000
21 for the licence.

22 .

23 And at paragraph 3 it provides for an interest-free
24 loan of ú624,000 from Lansdowne to Arippe. And then
25 provides for repayments in connection with that.

26 .

27 Can you explain at all what Mr. Owens meant, or can you
28 assist with what was meant by the second part of the
29 letter at page 3810, that "the validity of the
30 substance of the agreement was confirmed by subsequent

1 sales"?

2 A. My recollection is that I didn't find that helpful. I
3 mean, what he seems to be suggesting is something
4 rather obvious, that you couldn't sell something that
5 you didn't own in the first place. I am not trying to
6 be facetious, but that's what it says to me. How could
7 the company have sold to a householder if it didn't own
8 the land in the first place?

9 316 Q. Yes.

10 A. So it didn't add anything. It didn't add anything to
11 my store of knowledge.

12 317 Q. I presume the focus of your inquiry was to see whether
13 an excessive amount of money had, in fact, been paid
14 for the agreement?

15 A. Exactly, the suspicion - because of Arippe being a
16 Jersey company, caused me to be suspicious.

17 318 Q. Yes.

18 A. That was the thrust of the inquiry.

19 319 Q. And this letter or response from Owens Murray didn't -
20 did not, I suggest, assist your inquiry in any way?

21 A. Except that he goes some way to saying that as auditor
22 - as I understand the letter, he is saying that his
23 function as auditor is to see that the money went to
24 where it should have gone, and he examined that site
25 fine agreement to assist him.

26 320 Q. In establishing that the \$672,000 was transferred to
27 Arippe?

28 A. Yes, that it was routed correctly.

29 321 Q. You weren't happy, apparently, with that response,
30 because you wrote again at page 3812 on the 7th of

1 January, 1985, and you were seeking the names of all
2 the parties to the site fine agreement, the date, and
3 to say if it was in final form.

4 .

5 Then you refer to an earlier letter from Mr. Owens
6 which had been to the Investigation Branch, and you
7 say:

8 .

9 "Your letter dated the 28th January, 1981, to the
10 Inspector of Taxes detailed the bank accounts from
11 which amounts totalling ú672,000 were paid in respect
12 of site fines prepaid. In respect of the payments
13 referred to in that letter, let me know whether all
14 were made direct to Arippe or advise."

15 .

16 So, again you are conducting the same inquiry. Where
17 did the money go to? Was it all paid to Arippe?

18 A. Mm-hmm.

19 322 Q. I presume, the purpose of this inquiry is to establish
20 who Arippe was, and who were the beneficial owners, and
21 who ultimately got the 672?

22 A. Yes.

23 323 Q. So you also sought information from Mr. Owens as to
24 whether, say, when Arippe became a subsidiary of the
25 company - and I presume the company in question is
26 Lansdowne?

27 A. Yes.

28 324 Q. Had you been of the view that Arippe was, in fact, a
29 subsidiary?

30 A. I thought that in one of the agreements, the mechanism

1 by which the land was to be dealt with by Lansdowne
2 came about by Arippe becoming a subsidiary, something
3 similar to the Bouganville business.

4 325 Q. We'll come back to deal with that.

5 A. I think - that's how - I wouldn't have asked him to say
6 when it became a subsidiary, unless I had seen some
7 document to suggest that it either was or had to become
8 a subsidiary.

9 326 Q. Yes. You wrote again, in any event, to - sorry, Mr.
10 Owens wrote again in reply to your letter of the 7th of
11 January, '85. He wrote on the 18th of January, '85, at
12 page 3822. And he enclosed a copy of the site fine
13 agreement, which, in fact, was the licence agreement
14 between Lansdowne and Arippe, which we've just seen on
15 screen?

16 A. Yes.

17 327 Q. There was no date on the agreement, but he said it was
18 late November or early December. And at paragraph 2 he
19 says:

20 .
21 "We do not know whether the payments were made
22 piecemeal to Arippe, or assembled here, or paid in one
23 sum. As the total of the payments amounted to
24 ú672,000, we did not investigate the matter any
25 further. At that time the break with Sterling and
26 Exchange Control was imminent." And he sets out,
27 "Arippe was not a subsidiary of Lansdowne at the 31st
28 December, '79."

29 .
30 So it's being suggested there, by Owens Murray &

1 Company, that they didn't know whether the payments
2 were made in one, two or three payments, or how the
3 payments were made?

4 A. Yes.

5 328 Q. Isn't that right?

6 A. It seems to suggest that he didn't know that Miley &
7 Miley had paid out the amount in one sum.

8 329 Q. If we could look at Document 220, please.

9 .

10 This is a letter from Chase Bank in connection with the
11 ú672,000 which had been transferred from Algemene Bank
12 Nederland, which were the client account of Miley &
13 Miley.

14 .

15 And you will note that various payments are being
16 authorised there, including the return of ú404,500 from
17 the 672, back to the account of Miley & Miley.

18 .

19 Were you ever aware that that had happened?

20 A. No.

21 330 Q. And further down, at the third - then the next
22 paragraph provides for a payment of ú67,278.54, which
23 is a payment to Foxtown Investments. And the third
24 paragraph requires two drafts, one made payable to
25 H Owens, Esquire, for ú52,000, and the other to Reid &
26 McNabb for ú10,500.

27 .

28 That ú52,000 was, in fact, paid to Mr. Hugh Owens by
29 Chase Bank, Channel Islands arising out of this
30 transaction.

1 A. Mm-hmm.

2 331 Q. So it would appear that Mr. Owens did, in fact, if we
3 go back to page 3822 --

4 A. Could I interrupt you. Could I just see the date on
5 that letter for a moment, please?

6 332 Q. The date of the letter is the 30th of November, 1978.

7 A. Right.

8 333 Q. This is the breakdown of the ú672,000, Mr. Treacy.
9 This is what happened to it when it went to Jersey;
10 ú404,500 was transferred --

11 A. I remember from previous evidence at this Tribunal,
12 yes. I just wanted to be clear on that - the timing of
13 the return of the monies.

14 334 Q. So that the ú404,500 was returned to Miley & Miley?

15 A. Yes.

16 335 Q. Payments were made to Reid & McNabb and Mr. Hugh Owens?

17 A. Yes.

18 336 Q. And the balance was distributed, then, equally between
19 Mr. Brennan, Mr. McGowan and Mr. Finnegan --

20 A. Yes.

21 337 Q. -- in approximately the same amounts as you see there
22 in connection with Foxtown Investments?

23 A. Yes.

24 338 Q. Were you aware of any of that?

25 A. No, I wasn't.

26 339 Q. If I can take you back to the letter at page 3822 from
27 Mr. Owens of the 18th of January, 1985.

28 .

29 And it would appear that Mr. Owens appears to be giving
30 the impression here that he was unaware, or that as

1 auditors they were unaware as to whether the payments
2 were made piecemeal or assembled here and paid in one
3 sum?

4 A. Yes.

5 340 Q. This again was a payment that was made to Jersey as a
6 result of a scheme that was put in place by Mr. Owens?

7 A. Yes.

8 341 Q. And out of which Mr. Owens was himself paid ú52,000?

9 A. Yes.

10 342 Q. Were you aware of any of that?

11 A. No.

12 343 Q. You wrote again to Mr. Owens, on the 6th of February,
13 1985, in connection with this matter at 3833. And if
14 we scroll down the page, you will see under the heading
15 of "Arippe Investments Limited", "The copy agreement
16 between the company and Arippe was not signed on behalf
17 of the company. Can you let me know what directors
18 signed the original agreement?"

19 .

20 And then in the next paragraph:

21 .

22 "Say what documentation, apart from the copy agreement
23 you examined to verify the payments of ú672,000, and
24 give the names and addresses of the payees (you
25 previously advised the source of the funds, ú672,000,
26 to the Inspector of Taxes on the 28th of January,
27 1981)."

28 A. Could I ask you just to put back the letter that I
29 wouldn't have originally seen, where he gave
30 instructions about the 404,000 --

1 344 Q. Those instructions were given by Mr. Wheeler of Bedell

2 & Cristin. The letter is at 220. It's not a letter by

3 Mr. Hugh Owens.

4 .

5 This is a letter from Mr. Wheeler to Chase Bank

6 (Channel Islands) --

7 A. Right.

8 345 Q. -- on receipt of the money.

9 A. Okay. Right.

10 346 Q. And if you go back to your query, then, at 3833?

11 A. Mm-hmm.

12 347 Q. You are now asking Mr. Owens for the payees of the sum

13 of money, to whom the money was paid, isn't that right?

14 A. Yes.

15 348 Q. And Mr. Owens responds, at 3851, on the 1st of March,

16 1985. And in dealing with this particular inquiry

17 under the heading "Arippe Investments", if you scroll

18 down the page, he says: "We do not know who signed the

19 agreement on behalf of Lansdowne.

20 .

21 We fail to see what further documentation is required

22 to verify the payment of ú672,000, or indeed, what

23 documentation could be obtained.

24 .

25 We presume the payee was either Arippe or its

26 solicitors, but we have nothing on our files to

27 indicate whether this was so."

28 A. Yes.

29 349 Q. Now, it would appear from Mr. Owens' evidence, and from

30 the documentation with which the Tribunal has been

1 furnished, that Mr. Owens knew to whom the funds were
2 going to be paid, and the distribution of those funds?

3 A. Yes.

4 350 Q. And he, himself, was in receipt of ú52,000 from this
5 transaction?

6 A. Yes.

7 351 Q. And therefore would, in fact, have been one of the
8 ultimate payees of the money?

9 A. Well, I don't know how Mr. Owens was viewing the
10 question that I put to him.

11 .

12 For example, when it was - when he was asked about the

13 - who the payees were - what I am trying to get at is

14 he - is he distinguishing between the money going out,

15 the money being received by Arippe, and then something

16 else happening to it after that? Is he sectionalising

17 it in such a way that, perhaps, the answer that he has

18 given to my question might in certain circumstances be

19 construed as precise, if uninformative.

20 .

21 My concern about this letter isn't just the nature of

22 his reply to the destination of the 672. If you look

23 up the letter and you see, "Newtownpark Avenue cost -

24 ú672,000."

25 352 Q. Yes.

26 A. This is where I have to ask myself how he can reconcile

27 that that was, in fact, the cost, when in fact the

28 directors appear to have taken money for themselves,

29 certain directors took money for themselves. And I

30 can't see how that can be regarded as the cost. And

1 the cost must have been that amount less what certain
2 directors and others took for themselves.

3 353 Q. Yes. So that one looks at his reply in two parts. On
4 one hand he is saying that the cost of the land at
5 Newtownpark Avenue was ú672,000, and he is saying that
6 he does not know - that he presumes the payee was
7 either Arippe or its solicitors, but they have nothing
8 on our files to indicate whether this was so.

9 .
10 Now, the Owens Murray files are gone, and they are not
11 available to the Tribunal in connection with this
12 matter, but what is clear, is that Mr. Owens was
13 himself paid ú52,000 out of this transaction.

14 .
15 So that insofar as that ú52,000 is concerned, it could
16 not be a land cost. Isn't that correct?

17 A. Well, just to take this step-by-step now, just - maybe
18 he didn't know whether it was Arippe or its solicitors.
19 I am not in a position to say what he did or he didn't
20 know as regards to the first movement of the money from
21 Miley & Miley to wherever it went in Jersey.

22 354 Q. Yes.

23 A. Then after that it gets split up.

24 355 Q. Yes.

25 A. Now, I am not privy to the movements of his mind as to
26 how he is reconciling his answer to me with those
27 facts.

28 356 Q. Yes. This particular piece of land that's the subject
29 matter of this transfer, was purchased for ú100,000
30 from a Mr. Maguire - the lands at Newtownpark Avenue

1 were bought for ú100,000.

2 A. Again --

3 357 Q. The Arippe portion of the lands were bought for

4 ú100,000. There was a bigger transaction with

5 Mr. Maguire totalling, I think, ú465,000.

6 A. I don't have the same grip on the Newtownpark Avenue

7 transaction as I do on the Carrickbrennan transaction.

8 I know about the ú100,000 payment to Arippe, but my

9 understanding was that it was in relation to a

10 relatively small piece of ground.

11 .

12 A document on the Revenue files shows that that

13 particular 100,000 was in relation to an area of

14 something like - I think it was three roods and 26

15 perches, so obviously not many houses could have been

16 built on that.

17 .

18 But my curiosity in relation to the Newtownpark Avenue

19 site is, that certain directors were - had fiduciary

20 responsibilities to certain companies.

21 .

22 If I might just digress for a moment?

23 358 Q. Absolutely.

24 A. If you go back over the history of Landsdowne

25 Construction, you find that in mid-'77 it constructed,

26 I think it was roughly 20 houses on a site at

27 Knocklyon. The land was bought from Kilnarnagh

28 Estates. So you have certain directors of Lansdowne

29 who are also directors of Kilnarnagh Estates.

30 .

1 And then you move along to the second transaction in
2 Carrickbrennan. And so far as I am aware, it was
3 Kilnamanagh that paid the deposit on the leasehold.
4 .
5 So now you have certain directors of Lansdowne who are
6 also certain directors of Green Isle, which is also
7 involved, who are also directors of Kilnamanagh, and
8 are directors of Bouganville and Rapallo at that point
9 in time. And then you move on to the Newtownpark
10 Avenue site, and you find that certain directors of
11 Lansdowne are also directors of Greenmount Properties,
12 which was also involved in that site, and were
13 directors, or had a beneficial interest in Arippe
14 Investments, which was involved in that site.

15 359 Q. But you weren't aware of the - do I understand you
16 correctly, that you were not aware and did not know,
17 even though you may have suspected, that certain of the
18 directors of Lansdowne or Greenmount also had an
19 interest in Arippe?

20 A. No, I wouldn't have been - I didn't know that they - of
21 their interest in the Jersey company. The point I am
22 making is that certain directors had fiduciary
23 responsibilities in connection with Irish companies,
24 certainly, from the time Lansdowne first began to trade
25 to when it ceased to trade on the Ardlee site, which
26 was licenced from Grange Developments Limited.
27 .
28 So the question I have to address is how people
29 reconcile their fiduciary responsibilities in relation,
30 particularly, to the freehold of the Carrickbrennan

1 transaction, and the Arippe transaction of 72 - for
2 72,000 --

3 360 Q. I mean, is it your view, from a perusal of these
4 documents, that there was a breach of those fiduciary
5 duties, or that there may have been a breach of those
6 fiduciary duties?

7 A. Well, if I reactivate my inquiries in this case,
8 certainly I am going to be looking very hard at the
9 fiduciary duties of the directors, and also - and any
10 other parties who were involved in these transactions.

11 361 Q. The focus of the Tribunal's inquiry, Mr. Treacy, is to
12 try and establish the facts, and establish what
13 information was furnished by either the principals
14 involved, or their advisers to the Revenue
15 Commissioners, and whether or not the information that
16 was furnished was, in fact, correct information, in the
17 light of what is now known?

18 A. Well, if you look at Mr. Brennan's reply to me, I asked
19 him clearly - I have it in my statement, when I
20 reproduced his letter. I reproduced his reply. I
21 don't think my letter to him is in the statement. If
22 you could just put back my letter to Mr. Tom Brennan.

23 362 Q. On screen, yes. 3837, I think. 3837.

24 .
25 I think you are concerned primarily with the final
26 paragraph of that.

27 A. The third last line - I better read the full sentence:
28 "Please confirm that the foregoing is a correct account
29 of the purchase of Bouganville. And state the
30 circumstances of the acquisition of that freehold

1 interest."

2 .

3 "State the circumstances" - now, I am not a lawyer,

4 but, I mean, the understanding of the word

5 "circumstances", you should have elicited a response

6 where I would have got a full account of what actually

7 happened in relation to that transaction. And I

8 didn't.

9 363 Q. In fairness to Mr. Brennan in his letter to you, which

10 is at page 3868, Mr. Brennan says that he didn't

11 understand the mechanics of how Green Isle acquired the

12 freehold. But he knew it cost 350,000. And

13 Mr. Brennan, in evidence, told the Tribunal that the

14 structure, as he described it, was put in place

15 entirely by Mr. Owens and other experts. And that he,

16 Mr. Brennan, did not have a complete understanding of,

17 or have an understanding of how the structure operated,

18 but he did understand the ultimate benefit to himself.

19 A. Well, my letter asked him to give the circumstances.

20 He didn't tell me that he was a beneficial - that he

21 had a beneficial interest in a Jersey company.

22 364 Q. No. Nor did he identify to you that one of his

23 companies was a beneficiary of a portion of the sum of

24 ú350,000 that was transferred in that transaction?

25 A. Mm-hmm.

26 365 Q. Nor, indeed, was it disclosed to you that Mr. McGowan,

27 similarly, received a benefit. Or that Mr. Finnegan,

28 or his company similarly received a benefit. Nor, as

29 we've seen, was it disclosed that the entire series of

30 correspondence was orchestrated by Mr. Hugh Owens?

1 A. Yes.

2 366 Q. The same correspondence that was produced to the
3 Revenue to show that this was, in fact, an arm's length
4 transaction.

5 A. Yes.

6 367 Q. None of that was disclosed?

7 A. Yes.

8 368 Q. All right. So that - and we have dealt with that in
9 dealing with the £350,000. But is what you are saying
10 in connection with that to the Tribunal, that you were
11 of the view that you did not get a full and frank
12 explanation in relation to the £350,000 transaction?

13 A. Well, when I asked - when I asked to be supplied with
14 the circumstances of an event, I expect to get a
15 comprehensive reply. I don't regard the reply that I
16 got from Mr. Brennan as comprehensive.

17 .
18 I mean, not only is it not comprehensive, but I think
19 we spoke about this earlier, that it's actually
20 inaccurate in certain respects.

21 369 Q. Yes.

22 A. As regards the methodology of negotiation.

23 370 Q. Yes. Yes. That appears to be the position. But it
24 was Mr. Brennan's evidence to the Tribunal that all of
25 that was put in place by Mr. Owens, and Mr. Owens in
26 his evidence agreed that the correspondence that
27 ultimately led to the purchase of the freehold was, in
28 fact, correspondence that he had preordained?

29 A. As I recall Mr. Brennan's evidence, he regarded - I
30 think he used the phrase, "That was our selling price"

1 when a question was put to him about the €350,000. I
2 think over a long period of time the Tribunal was
3 trying to elicit from him how this figure of €350,000
4 was arrived at, and my recollection from the transcript
5 is he used the phrase, "That was our selling price."

6 .
7 Now, I understood him to mean by that, that "our" was -
8 his was the Jersey aspect of the transaction. In other
9 words, that he was wearing his Bouganville fiduciary
10 hat, if I might put it that way, or Rapallo hat, or
11 both of them together. And that it was a separate
12 arrangement, whereby he or they sold the freehold to
13 Green Isle, of which company he was also a director.

14 371 Q. This freehold had cost €10,000 when it was purchased by
15 Bouganville, and it was sold for €350,000 to Green Isle
16 Holdings Trust. Isn't that the end result?

17 A. Well, that's what the paperwork shows.

18 372 Q. Yes. Were you aware, for example, that out of the
19 Bouganville or the Monkstown transaction, Mr. Owens
20 again received substantial monies?

21 A. No, I wasn't.

22 373 Q. If we could have page 193, please.

23 .
24 This is the breakdown, or the payments out of the
25 €348,000. And the Jersey International Bank of
26 Commerce, €200,000, are the payments for Mr. Brennan
27 and Mr. McGowan.

28 .
29 There is a payment for Foxtown Investments, Mr.
30 Finnegan's company, of €100,000. Kilnarnagh Estates,

1 €11,000. Mr. John Finnegan personally, €5,000. And
2 Mr. H Owens, €32,000.
3 .
4 So, similarly, insofar as Mr. Owens was a recipient of
5 €52,000 in the Newtownpark Avenue transaction, he was
6 similarly a recipient of funds arising out of the
7 €350,000 transaction?

8 A. Yes.

9 374 Q. And was any of this disclosed - or the
10 inter-relationship between the directors of Lansdowne
11 and the directors of the Jersey company or the
12 beneficial ownerships ever disclosed?

13 A. Not to my knowledge.

14 375 Q. You also, if we can get back to the €672,000
15 transaction; you also conducted, I think, inquiries
16 with Messrs. Miley & Miley in relation to that
17 transaction, particularly, I think, when it appeared
18 that the funds had been paid out of the Miley & Miley
19 client account?

20 A. Yes.

21 376 Q. You wrote in January of 1985 to Messrs. Miley & Miley
22 Solicitors, at page 3825, in connection with the
23 €150,000, which was the money that had been borrowed
24 from Northern Bank?

25 A. Yes.

26 377 Q. And that was replied to - you also wrote again on the
27 13th of February, 1985, to Mr. Daniel O'Connell Miley,
28 at page 3845. And the first paragraph deals with the
29 €350,000. We've looked at that, but you also wrote in
30 connection with the 672, which is the second paragraph.

1 And you note from the company's records that ú200,000
2 was paid on the 6th of the 11th, and on the 29th of the
3 11th. And you wanted to know how they applied the sum
4 and the documentation supporting the same.

5 .

6 So this is the ú400,000 which was borrowed from Chase?

7 A. Yes.

8 378 Q. You received a reply on - at page 3853, on the 5th of
9 March, 1985. And at paragraph 2 it says:

10 .

11 "It would appear from our ledger that we received a sum
12 of ú150,000 from Northern Bank on the 28th of November,
13 and this represented part of a payment of ú672,013 on
14 the 29th of November, 1978."

15 .

16 And he then goes on to say: "We cannot easily identify
17 the transaction it related to, but if you can advise us
18 of the lands in question, we should be able to turn up
19 an old file to let you have more information in
20 relation to the matter."

21 .

22 The next paragraph: "With regard to your letter of the
23 13th ultimo addressed to Mr. Daniel O'Connell Miley, it
24 would seem as if the two sums of ú200,000, both of
25 which came from Chase Bank of Ireland formed part of
26 the payment of 672." And they are going to send you on
27 the company's client account?

28 A. Yes.

29 379 Q. They did, in fact, at page 3854 on the 21st of March,
30 send you on a copy of the client account ledger of

1 Landsdowne Construction. And they didn't have a client
2 account in respect of Green Isle Holdings. And the
3 client account is at page 3855.

4 .

5 And this is the document we've seen already, showing
6 the breakdown of the sum of ú672,000 that was
7 accumulated?

8 A. Yes.

9 380 Q. And it was accumulated in the account of Landsdowne
10 Construction --

11 A. Yes.

12 381 Q. -- in Miley & Miley, in the ABN Bank, and on the debit
13 side of that it shows a payment out of 672,013 to Chase
14 Bank (Channel Islands)?

15 A. Yes.

16 382 Q. You, on receipt of this information, sought further
17 information from Miley & Miley, at page 3861, on the
18 26th of March, '85.

19 .

20 And you identified for Miley & Miley one of the
21 questions they had asked you. They had said to you in
22 the earlier letter, "if you can identify the lands to
23 which this relates, we might be able to turn up a file
24 in connection with it"?

25 A. Yes.

26 383 Q. You wrote back, and at paragraph C you said:

27 "The payment of ú672,000 related to a site at
28 Richmond/Mount albany, Newtownpark Avenue, Blackrock,
29 County Dublin."

30 .

1 So you were in a position to identify the site for
2 them?

3 A. Yes.

4 384 Q. And you then sought the names and addresses of the
5 account holders to which the amount of ú672,000 was
6 transferred at Chase Bank (Channel Islands) Limited.
7 "And let me have documentation evidencing same"?

8 A. Yes.

9 385 Q. Messrs. Miley had acted for Landsdowne Construction in
10 the - what has been called the "site fine agreement",
11 but was, in fact, the licence agreement. Isn't that
12 the position?

13 A. Yes.

14 386 Q. So that they would have known that the ú672,000 was, in
15 fact, being paid out on the back of what has been
16 described here as the licence agreement, and which was
17 referred in earlier correspondence as "Site fines
18 prepaid"?

19 A. I would have expected so, yes.

20 387 Q. And they had acted for Landsdowne Construction and
21 were, of course, obviously aware that the two parties,
22 to the transaction were Landsdowne Construction Company
23 Limited and Arippe Investments Limited?

24 A. Yes.

25 .

26 CHAIRMAN: Do you want to try and finish the witness?

27 .

28 MS. DILLON: I think Mr. Hussey probably has some
29 questions, and --

30 .

1 MR. HUSSEY: If Ms. Dillon is close - I think this
2 witness has been very fair. I have very little to
3 cross-examine him on.

4 .

5 CHAIRMAN: It's just coming up to a quarter past 1. I
6 am quite prepared to carry on, if it's a quarter of an
7 hour.

8 .

9 MS. DILLON: I have only one more document to put to
10 the witness.

11 .

12 MR. HUSSEY: I'll certainly finish before --

13 .

14 CHAIRMAN: I think it would be better to finish the
15 witness and then let him go about his affairs, and we
16 can sit a little late after lunch.

17 .

18 MR. HUSSEY: I think so.

19 .

20 388 Q. MS. DILLON: One of the queries that is at paragraph C

21 of the document on screen is that what was asked was:

22 "Let me know the names and addresses of the" -

23 paragraph C: "Let me know the names and addresses of

24 the account holders to which the amount of ú672,000 was

25 transferred at Chase Bank (Channel Islands), and let me

26 have copy documentation evidencing same."

27 .

28 Now, we do know that the sum of ú404,500 was, in fact,

29 returned out of that amount to Miley & Miley?

30 A. Yes.

1 389 Q. Was that ever disclosed to you?

2 A. No.

3 390 Q. In response to that letter of yours of the 26th of
4 March, Miley wrote, at page 3876 - we've seen this
5 letter, because it also deals with the €350,000. At
6 paragraph A, and at paragraph C it says: "Noted: We
7 acted for Landsdowne Construction Company Limited in
8 respect of a portion of the site at Richmond,
9 Newtownpark Avenue, Blackrock, County Dublin.
10 Subsequently the company disposed of its sites to a
11 company called Carbrad Construction Limited. We are
12 not aware of the names and addresses of the account
13 holders to which the sum of €672,013 was transferred.
14 The monies were transferred in accordance with
15 instructions received from our client."

16 A. Can I just make a comment on that, firstly. They say,
17 "Subsequently the company disposed of its sites to a
18 company called Carbrad Construction Limited." That's
19 not wholly correct.
20 .
21 My understanding is that a few sites were sold directly
22 to householders, sites which had been built on. Those
23 houses were sold directly to householders. Carbrad
24 Construction Limited was sold some sites, I understand,
25 and a substantial number of sites were sold off to a
26 third party builder, unconnected with Brennan and
27 McGowan. It's just on a point of accuracy.

28 391 Q. Yes. The point I want to draw to your attention is
29 that Miley & Miley inform you they are in connection -
30 the query you had raised was in connection with the

1 ú672,000?

2 A. Yes.

3 392 Q. "And the names and addresses of the account holders,
4 and to have copy documentation evidencing same."

5 A. Yes.

6 393 Q. And Miley & Miley state, "We are not aware of the name
7 and addresses of the account holders to which the sum
8 of ú672,013 was transferred."

9 A. Yes.

10 394 Q. Now, it is clear that the money was transferred on the
11 back of a licence agreement between Landsdowne
12 Construction and Arippe?

13 A. Yes.

14 395 Q. It is also clear that the money was assembled in the
15 client account of Miley & Miley?

16 A. Yes.

17 396 Q. And that it was sent out to Chase Bank in the Channel
18 Islands?

19 A. Yes.

20 397 Q. The account holders to whom the money was transferred
21 would appear initially to have been the client account
22 of Bedell & Cristin Solicitors?

23 A. I just can't recall the previous document, but, I mean,
24 just looking at this now, in isolation, I don't
25 understand how somebody can send money to a bank
26 without designating how it's to be dealt with.

27 398 Q. Without designating the account number --

28 A. Some designation - some instruction as to how the bank
29 receiving the money is to deal with it.

30 399 Q. To which account it is to be credited to?

1 A. Well, that - my experience is the usual methodology
2 that you send money to a bank and you tell them to put
3 it into a particular account, unless it's for the bank
4 itself.

5 400 Q. It would appear to be the position, subject to anything
6 Mr. Miley, Mr. Stephen Miley may say to the Tribunal
7 this afternoon, whether it was implemented or not is
8 unclear, that Stephen Miley was authorised to make an
9 equitable deposit of the title deeds of this particular
10 portion of the lands with Chase and Bank of Ireland to
11 secure the loan of ú400,000. If we could have page -
12 these are the minutes of the meeting of Arippe
13 Investments Limited, dated the 18th of October, '78.
14 And it was resolved that:
15 .
16 "Stephen Miley be authorised to make an equitable
17 deposit of the title deeds of the company's lands at
18 Newtownpark Avenue, and that he be authorised to
19 complete a guarantee of ú400,000 in favour of Chase and
20 Bank of Ireland International Limited in respect of the
21 borrowings of Landsdowne Construction Company Limited."
22 .
23 It would appear that ultimately the title deeds were
24 deposited, and that a form of guarantee was entered
25 into in connection with this transaction, but the
26 Tribunal cannot say at this point in time that that
27 guarantee was, in fact, signed by Mr. Stephen Miley, or
28 whether that deposit of title deeds was made by
29 Mr. Stephen Miley in connection with the matter?
30 A. I don't think I would have seen this document, and I

1 just don't recollect what the terms of the facility
2 letter by Chase in relation to the €400,000 were - it
3 would just be interesting to compare.

4 401 Q. The facility letter from Chase, which we can get up for
5 you, from memory provided that it required a guarantee
6 on behalf of the directors of Lansdowne Construction
7 Company. It provided for an equitable deposit of the
8 title deeds of the lands held by Arippe, and a
9 guarantee by Arippe, the copies of - the copy is a very
10 poor copy?

11 A. As I say, this document is new to me. I can't remember
12 the facility letter, and just the question that -
13 running in my mind is, "Can both be reconciled?"

14 402 Q. 3720 may be the document. Sorry, it's at 3711.

15 .
16 This is the facility letter with Chase and Bank of
17 Ireland for €400,000. If you scroll down to where it
18 says "Security", which is very difficult to read. If
19 you just stop there. No. 1 appears to be:

20 .
21 "An equitable deposit of the title deeds to the 48
22 sites at Blackrock, County Dublin.

23 .
24 2. A solicitor's undertaking to lodge the repayments
25 as identified above.

26 .
27 C. The joint and several guarantees of the directors
28 of the company for €400,000, Tom Brennan, Joseph
29 McGowan, Kenneth Woodley, Daniel O'Connell Miley and
30 Timothy O'Connell Miley.

1 .
2 D. The guarantee of Kilnamanagh Estates for ú400,000.

3 .
4 E. Guarantee of Arippe Investments Limited for
5 ú400,000."

6 .
7 And it would appear that this was signed by Thomas
8 Brennan at page 3712, and the loan was advanced - if
9 you scroll down the page, please - and the loan was
10 advanced. And it would appear from the documentation
11 at 1730 that Mr. Stephen Miley was authorised to make
12 the equitable deposit, and to sign a guarantee on
13 behalf of Arippe.

14 A. Yes.

15 403 Q. Now, if Mr. Miley had done all of that, and was
16 involved to that extent, can you assist at all as to
17 why the response that was furnished in relation to the
18 query for ú672,000 is as set out at 3876?

19 A. No.

20 .
21 MS. DILLON: I have nothing further for Mr. Treacy,
22 Sir.

23 .
24 THE WITNESS WAS THEN CROSS-EXAMINED BY MR. HUSSEY AS
25 FOLLOWS:

26 .
27 404 Q. MR. HUSSEY: Mr. Treacy, you have given clear and
28 precise evidence, and I think very fair evidence, I
29 don't mean all in favour of my client or anything like
30 that, but I do think you have been very fair in the way

1 you've approached the evidence you've given to the
2 Tribunal.

3 .

4 Can I just suggest to you, the €672,000 that we've just
5 seen there, about the Newtownpark Avenue deal, I know
6 you are not as familiar with that as you are about the
7 earlier deal, but the €672,000 is made up of €14,000
8 multiplied by the - multiplied by 48 - sorry, that's
9 the correct mathematics?

10 A. Yes.

11 405 Q. It's €14,000 per site, multiplied by 48 sites. That's
12 the actual sum of €672,000?

13 A. The --

14 406 Q. The mathematics of that is correct. 14 by 48 gives
15 672?

16 A. I'll accept that.

17 407 Q. I think, if you would, please. It is correct.

18 A. Yes.

19 408 Q. What I am saying to you is this: That the actual sum -
20 now, I know - I don't want you to look at how the sum
21 was made up, or where the money came from, just at this
22 point, but the actual sum of money was a
23 pre-calculation by Mr. Brennan, as we've heard, in the
24 evidence, especially from Mr. Owens last week, was a
25 pre-calculation of what Mr. Brennan hoped or aspired to
26 sell the sites for?

27 A. I am not --

28 409 Q. Can I just --

29 A. Yes.

30 410 Q. -- having pre-calculated what he hoped to sell the

1 sites for, then a sum of money, based on that figure,
2 and borrowed to the hilt, and secured to the hilt by
3 Brennan and McGowan interests, was sent to Jersey,
4 €672,000?

5 A. Yes.

6 411 Q. I am saying that the original - the starting point of
7 the sum of money was what Mr. Brennan pre-assessed
8 would be available when he sold on these sites.
9 Remember, that the actual sum of money, the actual
10 payment over to Jersey took place very shortly after
11 the sites were acquired, and before the sites could
12 have been actually sold on the market.

13 A. Sorry, can I just digress for a moment?

14 412 Q. Please.

15 A. In relation to that agreement, there are three parts to
16 that agreement, I think, in relation to money matters.

17 413 Q. Which agreement?

18 A. The licensing agreement in connection with the
19 Newtownpark Avenue site. You have the loan aspect of
20 the agreement, you have - I think it's the 1,000 by 48
21 sites part of the agreement, and you also have the
22 ultimate cost, which was, I think, 19,800 per site.

23 414 Q. Can I just bring you back there. I think the original
24 costs - I think ultimately they are talking about 19
25 and 14 - or I think 13 being paid out of the 19,
26 towards the repayment of a loan.

27 A. Yes.

28 415 Q. Now, sorry, just before you come to that --

29 A. Yes.

30 416 Q. The 48 is 48 by 1,000?

1 A. Yes.

2 417 Q. Then you have another 48 by 13,000?

3 A. Yes.

4 418 Q. And then later you have 19,000, I think per site, but

5 €14,000 of which would be paid against the loan, isn't

6 that so?

7 A. Yes.

8 419 Q. So what I am saying to you is this: That before that

9 agreement came into being, the assessment of what the

10 sites would be sold on for, into the future, was made

11 up of at least €14,000? That's a fair agreement, would

12 you agree? In other words, while these agreements

13 themselves were - certainly the management agreement in

14 the Monkstown situation, and this agreement here, were

15 in themselves bogus? I've used this term before. In

16 actual fact, what they represented was a pre-estimate

17 by Mr. Brennan of his - the value of the site on his

18 sale on? Would that be a fair comment?

19 A. I am looking at it a different way. I am looking at it

20 - the situation where land was acquired by Lansdowne.

21 420 Q. Yes.

22 A. For example, the Newtownpark Avenue site.

23 421 Q. Yes.

24 A. I, from where I sit, I don't actually know what the

25 real cost was. I know about the €100,000 payment to

26 Arippe in respect of a small plot.

27 422 Q. Yes.

28 A. I know about Greenmount Properties paying the

29 Maguire's, I think it's 465,000.

30 423 Q. Yes.

1 A. I know about the licensing agreement that we've just
2 discussed.

3 424 Q. Yes.

4 A. But I don't know what the real cost of those 48 sites
5 was.

6 425 Q. I appreciate that. I am now talking about - we may be
7 speaking at cross-purposes.

8 A. I am not clear on what your question is, actually.

9 426 Q. I'm sorry. As I say, we may be speaking at
10 cross-purposes. I am not speaking about the actual
11 cost of the sites to the companies. I am talking about
12 the sale on of the sites.

13 A. The sale by Lansdowne to the third parties?

14 427 Q. To a third party?

15 A. Yes, which I understand to be 19,000. At least that's
16 what was provided for in the agreement.

17 428 Q. That's what was provided for.

18 .

19 What actually happened, I don't know - I don't think
20 the Tribunal knows what --

21 A. I have some knowledge of that. I mean, I know that for
22 a fact a third party builder, unconnected with Brennan
23 and McGowan, bought 29, I think, of those sites for
24 roughly £17,000.

25 429 Q. Yes. A site?

26 A. Yes. I don't know what Carbrad paid, and I don't know
27 what the householders pay for their house. I imagine I
28 might from the records.

29 430 Q. What I am saying is that insofar as the estimate for
30 the site value - I know, in the accounts they are

1 referred to as prepayment for sites, prepaid site

2 fines?

3 A. Yes.

4 431 Q. That's how they are dealt with in the accounts. Now,

5 we know that that isn't exactly true, but what I am

6 saying to you is that as far as we know, the value put

7 on the site fines in the accounts was, in fact, a

8 notional value that Mr. Brennan hoped to achieve on the

9 sale of these sites. It wasn't based on any actual

10 sale at the particular point that the sum was

11 calculated, but it was a price that he put on in order

12 to secure loans and what have you. And then ultimately

13 he had to attain that, or more than that, when he

14 actually sold on, which could be anything up to a year,

15 two years later?

16 A. I can't - I don't wish to be unhelpful, but I can't

17 really comment on how Mr. Brennan arrived at his

18 figures.

19 432 Q. You will agree with me that the €672,000 is 48 times

20 14, which is referred to in the licence agreement?

21 A. Yes.

22 433 Q. The 1,000 plus the 48 by 13?

23 A. 48, yes. I think as it happens, it wasn't 48. I think

24 -- it eventuated at 46.

25 434 Q. Is that right?

26 A. I think so.

27 435 Q. Your information is better than mine. I had thought it

28 was 48.

29 A. My understanding is that five houses were sold to

30 householders.

1 436 Q. Yes.

2 A. Twelve were sold to Carbrad and 29 were sold to another
3 builder when they sold off the site.

4 437 Q. Yes. Yes. You see, that ties in very much with Mr.
5 Finnegan's understanding of what was going on that day
6 - Messrs. Brennan and McGowan were selling on bits of
7 the site and they had a preordained threshold. Of
8 course, if you can get better than that, well and good,
9 if you couldn't, at least the 400,000 or whatever was
10 the preordained figure was going to be achieved.

11 A. My understanding from talking to some of the people in
12 the company was that there was some problem on that
13 site, and unlike the two previous sites that Lansdowne
14 built on, the Knocklyon site, which it built 20
15 something houses on, completed them; the Carrickbrennan
16 site, where it built roughly 60 houses, completed them
17 - Newtownpark Avenue was different. Something was
18 different about Newtownpark Avenue, and they got out of
19 it and moved on to the Ardlee site.

20 438 Q. I see. I see. Can I just suggest to you, then, when
21 Mr. Brennan was giving his evidence, as I say, I have
22 only come to this understanding now, in the light of
23 what you said, when he talks about "our selling price"
24 in respect of the Monkstown lands, the ú350,000, you
25 said that you read Mr. Brennan's evidence as being "our
26 selling price." I just ask you to clarify, if you can,
27 if you can't, obviously you can't, that in fact what he
28 meant was his selling on price; that that's how these
29 monies were generated out of his notional selling on
30 price. Can you comment on that?

1 A. My understanding of his evidence was that, if you like,
2 he was wearing a different fiduciary hat, that he was
3 now talking about him as Jersey, as distinct from him
4 as Green Isle, unless he had managed in his own mind to
5 be able to take this freehold and sell it to one of his
6 own companies.

7 439 Q. I see. Well, you see, what I understood - what I
8 understood him to have done was that he had, as I say,
9 notionally divided the site into whatever number of
10 sites was going to be available, put a price on it,
11 multiplied the two together, and said, "That's our
12 selling price, and out of that we will be able to
13 borrow 'X' pounds, send so much off to Jersey." But it
14 wasn't actually the Jersey company selling, it was the
15 - it was Mr. Brennan's pre-estimate of the site fines?

16 A. If I understand you correctly, I think what you are
17 saying is that it was Mr. Brennan's view that if
18 Lansdowne Construction was going to pay
19 ten-and-a-half-thousand pounds to Green Isle under the
20 licensing agreement between Lansdowne and Green Isle,
21 which - to which agreement he was the sole signatory.

22 440 Q. Yes.

23 A. That the sums on that were roughly 60 houses, at
24 ten-and-a-half thousand.

25 441 Q. Exactly.

26 A. So you have a figure of over 600,000.

27 442 Q. Exactly.

28 A. If you deduct from that the true cost of the site at
29 210,000 plus 10,000 and some expenses, and less some
30 bank interest, that that would have left 350,000, which

1 Green Isle would have earned and shown a profit to that
2 extent over a period of two years, in my estimation.

3 443 Q. Yes.

4 A. Were it not for the fact that it didn't take in the
5 asset at what I would regard as the true cost. It took
6 it in at a much higher figure. And therefore Green
7 Isle didn't make any profit. It made a loss, in fact.

8 .

9 CHAIRMAN: Mr. Hussey, I don't want to interrupt.

10 .

11 MR. HUSSEY: I have literally one more question.

12 .

13 CHAIRMAN: I will have to change the stenographer.

14 It's not me. It's the stenographer.

15 .

16 MR. HUSSEY: I am really just coming to the very, very
17 end of this. I am sorry, Sir.

18 .

19 CHAIRMAN: Please now, let's be fair to the
20 stenographers.

21 .

22 444 Q. MR. HUSSEY: No, my heart is with her, I have to say,
23 in this Tribunal.

24 .

25 Can I just ask you to have a look at page 3824, Mr.

26 Treacy, please.

27 .

28 No, 3824. Yes.

29 .

30 You are familiar with this document?

1 A. Yes.

2 445 Q. I think we've seen it already?

3 A. I have, yes.

4 446 Q. I think there are some workings on that document,
5 handwritten workings, and not part of the original
6 document?

7 A. Yes.

8 447 Q. Like this. There is "260 X Chase Bank," with a
9 question mark?

10 A. I think that's mine.

11 448 Q. And just under "Green Isle Holdings" --

12 .

13 MS. DILLON: I have to say that "260 X Chase Bank" is
14 mine, a sticker that was put up on the document.

15 .

16 MR. HUSSEY: I see.

17 .

18 MS. DILLON: You can eliminate that.

19 .

20 MR. HUSSEY: Sorry, I beg - I hadn't realised that.

21 .

22 Sorry, the other two markings, 175 and 66. Do you see
23 that?

24 A. Yes, I see that.

25 449 Q. Are they yours?

26 A. I don't think they are mine.

27 450 Q. I see. "175 Lansdowne, 66, Kilnamanagh"?

28 A. No.

29 451 Q. I think you have given some evidence that that was your
30 understanding, in fact, that of the initial deposit

1 there with the Northern Bank in respect of Green Isle,
2 that ú275,000, that 175 came from Lansdowne?

3 A. Yes.

4 452 Q. I think you've already told us of this?

5 A. That's right, yes.

6 453 Q. And I think you had been able to narrow it down or
7 reconstruct the situation where there was ú100,000, but
8 in this particular - it looks like "66, Kilnamanagh"?

9 A. I thought it was 100. I am open to correction on that.
10 Again, it would have been from a reconstruction. So I
11 am open to be corrected on that.

12 454 Q. Yes. It's just that Mr. Finnegan states that, on the
13 11th of November 1977, or the 10th or 11th November
14 1977, he put 33-and-a-third thousand into what he calls
15 the - this scheme, this Owens' scheme. And there is a
16 payment out of his account or out of the Foxtown
17 account of that sum on that very day that the 275 went
18 into the Northern Bank here.

19 A. Yeah.

20 455 Q. On the very same day. I am positing a proposition to
21 you, Mr. Treacy, that the 33 plus the 66, plus the 175,
22 could amount to 275 that's deposited there on the 11th
23 of November?

24 A. That's a possibility.

25 456 Q. It's a possibility. But that's all I can - I don't
26 think your information is any greater than mine in that
27 regard.

28 A. Yes.

29 457 Q. Okay. That's it. Thank you very much, Mr. Treacy.

30 .

1 CHAIRMAN: I express my appreciation to the
2 stenographer for carrying on. It's a very difficult
3 task.

4 .

5 It's now 20 minutes to 2.

6 .

7 Half past - say a quarter to three to resume.

8 .

9 THE TRIBUNAL THEN ADJOURNED FOR LUNCH

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1 THE TRIBUNAL RESUMED AFTER LUNCH AS FOLLOWS:

2 .

3 MS. DILLON: Good afternoon, Sir.

4 .

5 The next witness is Mr. Stephen Miley.

6 .

7 Mr. Miley, please.

8 .

9 MR. O'DONOGHUE: Good afternoon, Sir. If I may just
10 introduce myself. Kiernan O'Donoghue of Miley & Miley,
11 Solicitors, acting on the instructions of Mr. Stephen
12 Miley.

13 .

14 I am not making any application for representation, or
15 anything of the like, but I would just like the
16 Tribunal to be aware of my presence.

17 .

18 CHAIRMAN: Very good, Mr. O'Donoghue.

19 .

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30 .

1 MR. STEPHEN MILEY, HAVING BEEN PREVIOUSLY SWORN, WAS
2 EXAMINED BY MS. DILLON AS FOLLOWS:

3 .

4 MS. DILLON: Mr. Miley is already sworn.

5 ?

6 A. Yes.

7 .

8 MS. DILLON: Mr. O'Donoghue may not be aware, Sir, of
9 your practice, which is, even though a person is not
10 granted representation, that you normally grant the
11 facility for them to ask questions, without granting
12 representation, should the need arise when Counsel to
13 the Tribunal is finished. And in that case My Friend
14 would be the last person to deal with Mr. Miley, prior
15 to re-examination.

16 .

17 CHAIRMAN: Okay.

18 .

19 458 Q. MS. DILLON: Mr. Miley, you are a solicitor and a
20 partner in the firm of Miley & Miley?

21 A. That's correct, yes.

22 459 Q. And how long have you been a solicitor?

23 A. Oh, since about 1974.

24 460 Q. And for a considerable period of that time, you dealt
25 with the affairs of Messrs. Brennan and McGowan, and
26 their related companies and transactions?

27 A. Yes, from about 1970 onwards, from when I was an
28 apprentice, I would have worked, certainly in the 70s,
29 more or less exclusively for them.

30 461 Q. Yes. And can I ask you to explain first of all in a

1 general way to the Sole Member of the Tribunal, whether
2 or not you had any understanding of the relationship
3 between Messrs. Brennan and McGowan and Mr. Finnegan?

4 A. No, none at all. Subject to this: That I was aware
5 that Mr. Finnegan was involved in a number of the
6 transactions, but I thought in his capacity as an
7 estate agent, and I think later when the litigation in
8 relation to Canio commenced, I think it was in the
9 mid-1980s, I think I became aware then that he had an
10 interest in that company. I think that is about the
11 extent of it.

12 462 Q. In the Sandyford lands?

13 A. In the Sandyford lands, yes.

14 463 Q. But prior to the litigation, which I think commenced in
15 or around mid of 1985, did you have any understanding
16 of the relationship that existed in connection with the
17 land transactions which had been the subject matter of
18 the Tribunal inquiries between Messrs. Brennan and
19 McGowan and Finnegan?

20 A. Not that I can recall.

21 464 Q. And in the normal course of events, in dealing with the
22 transactions involving Messrs. Brennan and McGowan and
23 their companies and land transactions, who did you
24 normally take your instructions from?

25 A. Mostly - well, from both Tom Brennan and Joe McGowan,
26 and on a day-to-day basis on the housing estates with
27 who was working on the different developments.

28 465 Q. Yes. While initially, as I understand it, Messrs.
29 Brennan and McGowan had themselves been involved in
30 developing large sites in Dublin, through their various

1 companies, in later time they went on to purchase the
2 land and then sell on the land for development purposes
3 to companies with which they had an association or
4 relationship?

5 A. Yes, I think that is fair comment. In the '70s,
6 speaking generally, they had done the development
7 mostly themselves, the house building as well as the
8 site development, and from, I suppose, towards the end
9 of the '70s onwards they ceased building, and just did
10 the development and sold off sites to - yes, people
11 they were acquainted with.

12 466 Q. And I think throughout the period of the '70s and for a
13 considerable period of the 1980s, their financial
14 advisor or one of their main financial advisors was Mr.
15 Hugh Owens of Owens Murray, who was also in the
16 capacity as Owens Murray, auditor to a number of the
17 Brennan and McGowan companies?

18 A. Well, I would have seen him in his capacity as an
19 auditor, chartered accountant. Yes, I think it is
20 clear there was a certain amount of financial advice as
21 well, yes.

22 467 Q. I think it is fair - I think you have seen all of the
23 documentation that has been circulated by the Tribunal?

24 A. Yes, I have seen it all, and I have tried to absorb it.
25 It is a gigantic amount.

26 468 Q. Yes, there is quite a volume of documentation, Mr.
27 Miley, but you have been able to look through it to
28 some degree, in any event, since the Tribunal started
29 communicating with you?

30 A. Yes. As it was sent to me, I scanned it, largely for

1 references to myself or to my office, and that was

2 really where I attached most emphasis.

3 469 Q. It would appear that you had an involvement in a number

4 of the land transactions that are the subject matter of

5 the Tribunal's inquiries?

6 A. Yes, that's correct. Yes.

7 470 Q. And I think that you had an involvement in the

8 Monkstown land transaction?

9 A. Yes, it seems to. Yes.

10 471 Q. You also appear to have had an involvement in the

11 Donnybrook or Bellevue Avenue transaction?

12 A. Yes, I think that's correct. Yes.

13 472 Q. And you were also involved in the Newtownpark Avenue

14 transaction, which resulted in the ú672,000 being

15 transferred?

16 A. Yes, apparently so. Yes.

17 473 Q. I think you also acted for Messrs. Brennan and McGowan

18 in connection with the acquisition of the lands at

19 Tritonville, the Sandymount lands?

20 A. Is that not the same as the Bellevue one?

21 474 Q. No, Mr. Miley, it is not. The Bellevue Avenue lands

22 are lands in Donnybrook.

23 A. Yes. I beg your pardon. Yes I did act in that one,

24 yes.

25 475 Q. Then the Sandymount lands were lands that were

26 purchased from a Pembroke Estates related company,

27 Merrion Estates Limited, and sold on in a three-way

28 closing with Messrs. Smith Foy to Durkan Brothers?

29 A. Yes, I think that's correct.

30 476 Q. And out of that transaction, funds were transferred to

1 Jersey, to the credit of a company called Keno
2 Investments Limited, which were subsequently used to
3 purchase the freehold of Stephen's Green.

4 A. I have to take your word on that.

5 477 Q. I will be taking you through the documentation.

6 A. I have no memory of it, but yes.

7 478 Q. It would appear that you also acted for Keno
8 Investments Limited in the purchase of the freehold at
9 Stephen's Green?

10 A. So it would seem, yes.

11 479 Q. Yes. So it would appear that you had an involvement
12 to a greater or lesser degree in those land
13 transactions?

14 A. Yes, I think I was involved on the conveyancing side in
15 all of them, as you say, yes.

16 480 Q. Can you explain to the Tribunal, before we embark on
17 looking at the documentation, Mr. Miley, what your
18 understanding of the Jersey connection with these land
19 transactions was?

20 A. Well, I don't think I had any particular sort of
21 perception of them, but my instructions were that these
22 were the way the transactions were to be dealt with,
23 and that's the way we did them.

24 481 Q. Were you acting in these transactions - on whose
25 instructions were you acting?

26 A. Well, Tom Brennan and Joe McGowan.

27 482 Q. And is it correct to say, then, that insofar as
28 Monkstown was concerned, that you took your
29 instructions in relation to the acquisition of those
30 lands from Messrs. Tom Brennan and Mr. Joseph McGowan?

1 A. Yes, I think so. I mean, I really have got no memory
2 of it, but I presume that is what happened.

3 483 Q. Right. The Monkstown transaction, if I can summarise
4 for you, first of all, what it appears happened in
5 relation to the matter, and then take you through your
6 particular part in relation to it, to see if you can
7 shed any light on the matter.

8 .
9 It would appear that Mr. Owens of Owens Murray & Co.,
10 in June and July of 1977, put in place a mechanism or a
11 scheme, as a result of which correspondence would be
12 written by various firms of solicitors in Dublin, which
13 would ultimately lead to the acquisition of a company
14 in Jersey, the shares in a company in Jersey called
15 Bouganville, by an Irish company called Green Isle
16 Holdings Trust?

17 A. Yes, I have read that. Yes, in the brief.

18 484 Q. The only asset that was owned by Bouganville
19 Investments Limited was the freehold of the lands at
20 the Convent of the Sacred Heart in Monkstown, which had
21 been purchased on foot of a contract between the De
22 Vesci Estate and the Convent of the Sacred Heart for
23 ú10,000?

24 A. Yes, apparently so.

25 485 Q. The benefit of that contract was then taken and the
26 sale completed by Bouganville Investments Limited, a
27 Jersey registered company?

28 A. Yes, I believe so. Yes.

29 486 Q. That Jersey registered company then entered into a
30 management agreement with another Jersey company called

1 Rapallo Limited?

2 A. Yes, so it appears. Yes.

3 487 Q. On foot of which Bouganville became indebted to Rapallo

4 in the sum of ú350,000?

5 A. Yes.

6 488 Q. Green Isle Holdings Trust then offered to buy the

7 freehold, but the Jersey company wouldn't sell the

8 freehold, but instead agreed to sell the shares in

9 Bouganville, provided Green Isle Holdings Trust would

10 agree to discharge the indebtedness due to Bouganville?

11 A. Yes, I think that is the way it was structured.

12 489 Q. You were retained, as I understand it, under this

13 structure to act on behalf of Green Isle Holdings

14 Trust?

15 A. Apparently so. I have no memory of it, although - all

16 I know is really from what I have seen in the briefing

17 documents.

18 490 Q. Yes. We could look at page 153, Mr. Miley, to see if

19 that would assist you.

20 .

21 These will come up on the screen beside you, the larger

22 screen.

23 .

24 This is the letter of the 7th of July, 1977, Mr. Owens

25 of Owens Murray, Mr. Wheeler dealing with Rapallo

26 Limited and Bouganville Investments Limited.

27 .

28 Paragraph one isn't really relevant. In paragraph two

29 he says:

30 .

1 "There will be three Dublin solicitors acting in this
2 case. The first is Vincent and Beatty, 67 Fitzwilliam
3 Square, Dublin 2, who act for the Sacred Heart Nuns who
4 have a contract for the purchase of their property.

5 .
6 The second will be Young and O'Reilly Solicitors, 1
7 Lower Leeson Street, Dublin 2, who will act as agent in
8 the investigation of the title etc. on the purchase of
9 the property.

10 .
11 The third firm will be Miley & Miley Solicitors, 12
12 South Frederick Street, Dublin 2, who will act for the
13 ultimate purchasers of the shares of Bouganville."

14 A. Yes.

15 491 Q. And then he goes on:

16 .
17 "Since I wrote to you on the 23rd of June, I have had
18 consultations with solicitors over here and the revised
19 and final scheme is enclosed. Bouganville will take
20 the property direct without going through Rapallo, and
21 Rapallo will take its profit by entering into a
22 management agreement with Bouganville."

23 .
24 I think that ultimately happened, there was an
25 agreement between Bouganville and Rapallo?

26 A. Apparently so, yes.

27 492 Q. The next paragraph:

28 .
29 "Enclosed a memorandum consisting of six paragraphs
30 describing in general the scheme from beginning to end.

1 Also enclosed is a detailed timetable of sixteen
2 letters and events, and please note that the dates on
3 the letters must be as per the enclosed timetable. The
4 three Irish solicitors are also getting their relevant
5 timetables insofar as concerns each firm."

6 .

7 And he encloses a draft of the first letter for you to
8 send, on the 29th of June, and the second letter dated
9 the 6th of July should follow simultaneously. And
10 enclosed by Mr. Owens to Mr. Wheeler, with that
11 document, was the revised and final schedule, which is
12 at page 154, which sets out how the scheme is to
13 operate.

14 A. Yes.

15 493 Q. All right. And at 155, is the timetable for letters
16 and action?

17 A. Yes, I see that.

18 494 Q. If we move down to No. 9 of that, it provided for
19 letters from Miley & Miley to Bedell & Cristin offering
20 to buy the freehold.

21 A. Yes.

22 495 Q. And a draft of that letter was apparently sent by Mr.
23 Owens to Bedell & Cristin. And if we look at page 160,
24 we see on the 27th of July, the Letter of Offer from
25 Miley & Miley Solicitors offering to buy the freehold.

26 A. Yes.

27 496 Q. And you identify there that your clients are Green Isle
28 Holdings Trust Limited?

29 A. Yes.

30 497 Q. And you wish to acquire the fee simple interest in the

1 lands?

2 A. Yes.

3 498 Q. If I can take you back to what Mr. Owens is saying at
4 page 153. He says that he has had consultations with
5 solicitors over here. Was it the position that there
6 were such consultations?

7 A. I really have no memory, other than the documents that
8 I have seen in the brief. But I mean, I accept them
9 for what they are. It does seem that I acted for Green
10 Isle Holdings Trust in that transaction, but I have no
11 memory of it.

12 499 Q. If what Mr. Owens has said in his letter is correct,
13 not alone did you act for Green Isle Holdings Trust,
14 but Mr. Owens apparently had a meeting, because he
15 says, "I have had consultations with the solicitors
16 over here," of which you were named or your firm was
17 named as one in the earlier part of the letter, isn't
18 that right?

19 A. Well, I would imagine that if I was acting, I would
20 have, and he put the scheme together that I would have
21 had discussions with him. I have no memory of it, but
22 I mean, I can certainly accept that that could have
23 happened.

24 500 Q. And it would also appear, if Mr. Owens is correct, that
25 where he says, "The three Irish solicitors are getting
26 their relevant timetables," that the timetable, in so
27 far as it concerned Messrs. Miley & Miley commencing at
28 Item Number 9 on page 155, would also have been
29 furnished to you?

30 A. I presume so, yes.

1 501 Q. Would that be a normal type of transaction, Mr. Miley?

2 A. Not terribly normal, but it wouldn't be out of the
3 ordinary. I wouldn't have thought either - a lot of
4 transactions are carried out in a structured way with a
5 timetable. I wouldn't have seen anything particularly
6 out of the ordinary in it.

7 502 Q. It is normal for a solicitor to be furnished with a
8 draft letter, which has been prepared by somebody else,
9 and instructed to send that on behalf of his clients,
10 rather than preparing the letter himself?

11 A. It would depend on the situation, but it is not very
12 normal, no.

13 503 Q. No. If we proceed through the correspondence. At page
14 3688 you will see that Messrs. Bedell & Cristin, as per
15 Mr. Owens' timetable, have replied to your letter, and
16 they set out that:

17 .
18 "As you know, the land is owned by Bouganville
19 Investments Limited, and our clients are not willing to
20 dispose of the land by a straight sale of the freehold.
21 They would be prepared to sell the shares of
22 Bouganville, provided your clients take on the
23 liabilities of the company which amount to ú350,000."

24 A. Yes.

25 504 Q. Were you aware that the freehold had been purchased by
26 Bouganville for ú10,000?

27 A. I can't say - I just can't remember, I am afraid.

28 505 Q. If you had been furnished with the scheme that Mr.
29 Owens refers to, at page 154 --

30 A. Yes, if it mentions it on that - yes, I would have been

1 familiar with it. Yes.

2 506 Q. Then you would have been informed at that time that the
3 cost, in fact, of the freehold, which is set out at
4 paragraph 1, was ú10,000?

5 A. Yes, if - yes, on the assumption that I had that
6 document, which I think is a reasonable assumption to
7 make, yes, I would have known.

8 507 Q. Then you are being required, under this correspondence,
9 that your clients would pay ú350,000 in connection with
10 the same asset, isn't that right?

11 A. Yes.

12 508 Q. And would you not as a solicitor, I am no way
13 challenging your integrity or anything like that, would
14 you not have felt that you should have taken a step
15 back from this, Mr. Miley, if you did have the
16 information, and said to Green Isle Holdings Trust,
17 "Well, maybe there is a better way or a cheaper way to
18 acquire this," or were you merely acting on foot of the
19 instructions you had?

20 A. Well, I was acting on foot of the instructions I had.
21 The scheme had been put in place, and I was just asked
22 to deal with my part of it, so --

23 509 Q. So, was it the position, then, Mr. Miley, that what
24 happened was that you were presented with the scheme,
25 into which you yourself made no input, but which you
26 simply carried on with, as per your instructions?

27 A. Yes, I think that would be fair comment.

28 510 Q. Yes. And insofar as you were taking your instructions
29 in relation to this transaction, is it likely that you
30 were taking them from Mr. Owens or Mr. Brennan or Mr.

1 McGowan?

2 A. I would imagine a combination of the three.

3 511 Q. And would you have been happy to take your instructions
4 from any of those?

5 A. Yes, I suppose it would depend who was actually
6 involved in leading the transaction.

7 512 Q. It would seem, though, as if the effect of this
8 transaction was that Green Isle Holdings Trust would
9 ultimately acquire something at a cost of ú350,000,
10 that some short time previously had been purchased for
11 ú10,000?

12 A. Yes.

13 513 Q. Right. Having looked at the documentation, Mr. Miley,
14 would you agree that there was no reality to the
15 management agreement that existed between Bouganville
16 Investments Limited and Rapallo Limited?

17 A. Well, I don't think I ever saw the management
18 agreement. I don't think I was involved in that aspect
19 of it. I think that was being dealt with, as far as I
20 interpret the papers, that was being dealt with by
21 Bedell & Cristin.

22 514 Q. Yes. I think you were, in fact, furnished with a copy
23 of the management agreement, Mr. Miley. And if you
24 look at page 176. On the 24th of October, 1977, Bedell
25 & Cristin furnished your office with the management
26 agreement. At line three it says:
27 .
28 "We now enclose a certified account as of the 18th of
29 October, 1977, together with a copy of the management
30 agreement, dated the 20th of October, 1977, but having

1 effect from the 1st of July, 1977."

2 A. Yes, I see that.

3 515 Q. "And a form of guarantee which your clients will be
4 required to execute before the shareholders of
5 Bouganville will agree to the transfer of the
6 beneficial interest of the shares to your clients"?

7 A. Yes.

8 516 Q. It appears that you were in fact furnished with a copy
9 of the management agreement?

10 A. So it seems.

11 517 Q. And that the management agreement provided for certain
12 services of a financial nature to be provided by
13 Rapallo to Bouganville, for which they were to receive
14 payment?

15 A. I accept what you are saying. I just don't know.

16 518 Q. Yes. Mr. Simon Howard has told the Tribunal that
17 insofar as Bouganville Investments Limited and Rapallo
18 were concerned, they had no offices, they had no
19 premises, they had no employees, and that in effect
20 they existed in a filing cabinet side-by-side in a
21 folder?

22 A. I would have had no knowledge whether that was the case
23 or not.

24 519 Q. So you are not aware whether or not - whether in fact
25 any services were provided under the terms of the
26 agreement?

27 A. No, that wouldn't have been part of my function at all.

28 520 Q. No, but it would appear clear, I think, from the
29 correspondence from Mr. Owens that we have looked at,
30 that the whole purpose of this transaction was not that

1 services would be provided by Rapallo to Bouganville or
2 Bouganville to Rapallo, but merely to provide a vehicle
3 whereby the funds to be transferred --

4 A. I didn't listen to Mr. Owens' evidence, so I am really
5 not --

6 521 Q. I am asking you about the correspondence, Mr. Miley,
7 that we looked at initially in relation to - Mr. Owens'
8 letter of the 7th of July, his scheme as set out and
9 the series of correspondence and the schedule of
10 timetables and letters?

11 A. Yes.

12 522 Q. That the whole purpose of the exercise was to effect a
13 transfer of funds?

14 A. Oh, yes, I think that is fair comment, yes.

15 523 Q. And that there was no reality to management services
16 being provided by one company to another?

17 A. Well, I just don't know. I mean, that was the scheme,
18 and certainly the intent of it was to transfer the
19 money, as you have suggested, or so it would seem.

20 524 Q. Yes. Ultimately, I think, the agreement was concluded
21 between your firm, acting on behalf of Green Isle
22 Holdings Trust, and Messrs. Bedell & Cristin acting on
23 behalf of Bouganville Investments Limited?

24 A. Yes, I think so. Yes.

25 525 Q. And the shares in Bouganville were transferred to Green
26 Isle Holdings Trust?

27 A. Yes, apparently so.

28 526 Q. On foot of which it was required, or it was one of the
29 conditions or requirements of Messrs. Bedell & Cristin,
30 that a form of guarantee would be entered into by Green

1 Isle Holdings Trust, which was a guarantee that Green
2 Isle Holdings Trust would pay the obligation to
3 Rapallo?

4 A. Yes, I think that was a part of the scheme, yes.

5 527 Q. Which is at page 179.

6 .

7 This is the document where Green Isle Holdings Trust
8 guarantees Rapallo that on an acquisition of the shares
9 in Bouganville Investments Limited, they would procure
10 that that company honours its obligations to Rapallo
11 Limited under the agreement between Bouganville
12 Investments Limited and Rapallo Limited, dated the 20th
13 of October 1977. And it then goes on to guarantee the
14 due performance by Bouganville Investments Limited of
15 its obligations?

16 A. Yes.

17 528 Q. So it was part of the agreement, and a guarantee was
18 entered into that that contract would be performed?

19 A. Yes, I think that was part of the structure that was --

20 529 Q. Yes. And the contract that provided that a sum of
21 ú350,000 would be paid?

22 A. Yes.

23 530 Q. All right. That, I think, is signed by Mr. McGowan and
24 Mr. Brennan, and witnessed by yourself?

25 A. Yes, that's my signature. Yes.

26 531 Q. Yes. And the actual management agreement with which
27 you had apparently been furnished, is at page 168.

28 This is the agreement between Bouganville and Rapallo.

29 And again, I think you have seen that in the documents?

30 A. Yes, I must have done, yes.

1 532 Q. By the 30th of November, 1977, you had, in fact, at
2 page 182, paid for the shares, and you were being
3 furnished with share certificates showing that Green
4 Isle Holdings Trust is the owner of six shares in
5 Bouganville Investments Limited?

6 A. Yes.

7 533 Q. And that two Declarations of Trust in favour of Green
8 Isle Holdings Trust have been executed by nominee
9 shareholders?

10 A. Yes.

11 534 Q. You were also told that Bouganville was in the course
12 of liquidation, and you were asked if you could arrange
13 for Green Isle Holdings Trust Limited to execute the
14 two proxy forms?

15 A. Yes, I see all of that.

16 535 Q. Were you aware that by this time the sum of ú350,000
17 had been transferred to Jersey, on foot of the
18 agreement?

19 A. I can't say whether I was or not. I have no memory of
20 it.

21 536 Q. But isn't it likely, Mr. Miley, that you must have
22 known, because other than that, the agreement would not
23 have completed?

24 A. Well, the agreement, I would imagine, would have
25 completed on payment of the money for the shares. The
26 other business would have been - could have been dealt
27 with independently. I mean, I just really don't know.
28 I am not disagreeing with you.

29 537 Q. That it is likely that you knew that the sum of
30 ú350,000 had been transferred to Jersey - I mean, this

1 was not transferred --

2 A. Yes, it would have gone at some stage, I suppose, in

3 order for the --

4 538 Q. Yes. And the whole purpose of the transaction was to

5 transfer the funds?

6 A. Yes, I suppose it probably was, yes.

7 539 Q. I mean, the reality of the matter, Mr. Miley, was this

8 entire transaction was put in place by the people

9 involved for the purpose of effecting a transfer of

10 funds to Jersey by a mechanism or a structure as it has

11 been described?

12 A. Yes, I think that is fair comment.

13 540 Q. So it was the purpose of the transaction between these

14 connected parties that this would be done?

15 A. Yes.

16 541 Q. So it is therefore likely that all of the parties who

17 were involved in this transaction, both you on behalf

18 of Green Isle, Messrs. Brennan and McGowan, although

19 you were unaware of Mr. Finnegan, and the Jersey side

20 involvement, were all aware that 350 was going to be

21 transferred to Jersey?

22 A. We were certainly aware to the extent that the

23 documentation had been prepared and reflected that,

24 yes.

25 542 Q. Mm-hmm. Indeed, I think that Mr. Owens said in his

26 initial structure, when he was setting out the

27 structure - if we look at page 154.

28 .

29 If you look at paragraph 4. In that Mr. Owens is

30 setting out what the balance sheet of Bouganville will

1 look like at that time, with a deficit of ú350,000.

2 And at paragraph 5 he says:

3 .

4 "Bouganville is liquidated, and if the full ú350,000 is
5 not been received by Bouganville at that time, the
6 Irish company and Rapallo will agree with the
7 liquidator that the debt due by Bouganville to Rapallo
8 will taken over by the Irish company."

9 .

10 That, in fact, happened, isn't that correct? Not with
11 the liquidator, but there was an agreement that Green
12 Isle, as we have seen, would take over the debt that
13 was due? It was part of the contract?

14 A. Yes, I think that is what it said. Yes.

15 543 Q. The liquidator will then contribute the ground rent in
16 specie to the Irish company.

17 .

18 "6. Rapallo will then have ú350,000 in cash and will
19 discharge expenses of advisors and consultants, and
20 will have ú300,000 left, which it will hold for the
21 beneficial owners. It will be shortly liquidated and
22 the beneficial owners will then instruct you further."

23 .

24 It is likely you got this document, and it is likely
25 that you were told that ú350,000 would be transferred,
26 and that there would be a liquidation and distribution
27 in specie?

28 A. As I say, I have no memory of it, but I can't disagree
29 with what you are saying.

30 544 Q. Because on the 8th of December, 1977, after you had

1 been told on the 30th of November, 1977 about the
2 appointment of a liquidator, at page 184, on the 8th of
3 December, 1977, you were looking for the name of the
4 liquidator. I think that that reference on this
5 correspondence, Mr. Miley, if we go back to 5/ES. I
6 think "5" is your reference or was at that time?

7 A. It still is, yes.

8 545 Q. And you set out in that letter, "Acknowledging the
9 letter of the 30th" and you are returning the two proxy
10 forms completed by the two directors, and "look forward
11 to hearing from you as soon as the liquidator has been
12 appointed."

13 A. Yes.

14 546 Q. And looking for copies of the name of liquidator.

15 .

16 The purpose of the appointment of a liquidator was the
17 distribution in specie?

18 A. Yes.

19 547 Q. And you, in fact, prepared the draft for the
20 distribution in specie, Mr. Miley; isn't that the
21 position?

22 A. I will have to take your word for it. I just don't
23 remember whether I did or not.

24 548 Q. Page 185. On the 9th of December, 1977, Mr. Miley, you
25 enclose a draft of the conveyance for the distribution
26 in specie?

27 A. Oh, yes. Yes.

28 549 Q. Yes. You ask for Mr. - or for Messrs. Bedell
29 Cristin's advice, or to satisfy themselves that it
30 complies with Jersey law, and to settle it and return

1 it to you?

2 A. Yes.

3 550 Q. The actual deed of distribution in specie that you

4 forward and which was ultimately completed is at page

5 196.

6 .

7 That is the document, I think, you drafted?

8 A. It could well be. I don't recognise the print style,

9 but --

10 551 Q. That appears to be the print style of Messrs. Bedell &

11 Cristin?

12 A. Yes.

13 552 Q. And in fact, if you turn to page 199 of that document.

14 If you scroll down the page, please. You will see that

15 it is signed for Green Isle Holdings Trust by, I think,

16 Mr. Timothy Miley, and the signature beneath that is

17 unclear?

18 A. It is my father's signature.

19 553 Q. That is Mr. Daniel O'Connell Miley, and it is witnessed

20 by yourself?

21 A. Yes.

22 554 Q. That would appear to be the draft of the conveyance

23 that you had prepared and sent out on the 9th of

24 December?

25 A. So it would seem, yes.

26 555 Q. It appears to be the position, therefore, Mr. Miley,

27 that you were fairly intrinsically involved in this

28 transaction, at that time?

29 A. Yes, I think that is fair enough, yes.

30 556 Q. When the Revenue Commissioners subsequently raised

1 queries in connection with this matter, they engaged in
2 correspondence and Mr. Treacy, who was here this
3 morning and gave evidence, dealt with that
4 correspondence in connection with this transaction.

5 And one of the questions that you were asked in
6 correspondence, was you were told in correspondence
7 that you had acted for Green Isle Holdings Trust, and
8 copies of all documentation in connection with that was
9 sought from your firm, and the letter was originally
10 sent to Mr. Daniel O'Connell Miley at page 3817.

11 .

12 You will see there that Mr. Stephen Treacy, who was the
13 liquidator appointed by the Revenue Commissioners to
14 Lansdowne Construction Company, of which Green Isle
15 Holdings was a wholly owned subsidiary, isn't that
16 right?

17 A. Yes, I think that is correct. Yes.

18 557 Q. And he sets out there that his records show that your
19 firm, that is Miley & Miley, acted for Green Isle in
20 connection with the acquisition of the freehold
21 interest in the Carrickbrennan Estate at Monkstown,
22 County Dublin.

23 .

24 "I will be obliged if would you let me have copies of
25 all documents in connection there with."

26 A. Yes.

27 558 Q. It is clear that what is being identified there for
28 your firm is the fact that you acted in connection with
29 the freehold acquisition?

30 A. Yes.

1 559 Q. Isn't that right?

2 A. Yes.

3 560 Q. And you would have been aware, of course, that there
4 were two parts to this transaction, the acquisition of
5 the leasehold and the acquisition of the freehold?

6 A. Yes. Yes, that's right.

7 561 Q. Because you would have seen that from Mr. Owens'
8 correspondence, where he sets out that - the
9 correspondence we have just looked at?

10 A. Mm-hmm.

11 562 Q. And therefore, would you have been familiar with the
12 fact that the freehold transaction which gave rise to
13 the £350,000 being transferred to Jersey, was a
14 separate transaction to the leasehold interest
15 purchase?

16 A. Yes, I think the leasehold interest had already been
17 acquired at the time the freehold acquisition was
18 actually taking place.

19 563 Q. Yes, I think that - I think, in response to that, it
20 was indicated that Messrs. Miley & Miley did not act
21 for Green Isle Holdings Trust Limited?

22 A. Yes, I saw a letter just before we started. It was
23 brought to my attention.

24 564 Q. 3843, please?

25 A. I think the reply made in the letter was somewhat
26 qualified, and it - sorry, that is a different letter
27 than the one I thought.

28 565 Q. Well, this is the correspondence in sequence. The
29 letter, which is somewhat qualified, comes later in the
30 sequence, Mr. Miley.

1 A. Yes.

2 566 Q. This letter is signed by Mr. Daniel Miley, and it deals
3 with the query that had been raised by Mr. Stephen
4 Treacy in the letter which has just been on screen. It
5 acknowledges receipt of the letter of the 17th, and
6 states that, "this firm did not act for Green Isle
7 Holdings Trust Company Limited in connection with the
8 acquisition of the Carrickbrennan Estate in Monkstown."
9 I believe it was Vincent and Beatty Solicitors who
10 acted --

11 A. I think it is clear from that letter that my father was
12 confused. Vincent and Beatty had, as far as I am
13 aware, had acted in the acquisition of the leasehold
14 interest, but they had certainly acted in the
15 development of the sale of houses on the estate. So I
16 would imagine that that is where my father was
17 confused.

18 567 Q. However, the query that had been put by the Revenue
19 Commissioners, Mr. Miley, was not a query in relation
20 to the leasehold interest, but a specific query in
21 connection with the acquisition of the freehold
22 interest, at page 3816?

23 A. Yes, I accept that.

24 568 Q. Yet in this response, the specific query there is that
25 your firm acted for Green Isle in connection with the
26 acquisition of the freehold interest?

27 A. Yes, I think there was a period when there was some
28 confusion, that I was dealing with correspondence in
29 relation to this matter as well as my father, but my
30 father wouldn't have dealt with this on a regular

1 basis, and he was confused. That is the best
2 explanation I can offer you. I mean, the letter is
3 clearly wrong.

4 569 Q. Yes. Now, you do point out to Mr. Treacy, on the 21st
5 of March, 1985, 3854, that there had been some
6 duplication of correspondence, and that it would be
7 better if the correspondence in the future was directed
8 to you?

9 A. Yes, I think is what I say.

10 570 Q. Now, Mr. Treacy then raised further particulars or
11 sought further information from your firm in connection
12 with this transaction, page 3861. And in this letter
13 Mr. Treacy furnishes further information to your firm.
14 And at paragraph A:
15 .
16 "As previously requested in my letters dated the 17th
17 of January and the 13th of February, '85, addressed to
18 your, Mr. D Miley, please let me have copies of all
19 documentation in connection with Green Isles'
20 acquisition of the freehold interest in the
21 Carrickbrennan Estate, Monkstown. That freehold
22 interest was acquired by way of the acquisition of an
23 another company."

24 .
25 So, the issues that are set out there are quite clear.
26 You are being told in a correspondence that the
27 acquisition of the freehold took place by way of a
28 buying the shares in another company?

29 A. Yes.

30 571 Q. And also that the query is in connection with the

1 freehold interest?

2 A. Yes.

3 572 Q. Now, I think ultimately this was replied to by you on
4 the 6th of January, 1986. At page 3876.

5 .

6 And at paragraph A of that, in answer to the letter of
7 the 26th of March, which was the letter we have just
8 looked at, you state:

9 .

10 "As far as we are aware, we do not act for Green Isle
11 Holdings Trust Limited and are unable to locate the
12 documentation requested. We do, however, have a
13 booklet of title which was prepared for the estate and
14 there is a conveyance dated the 29th of December, 1977,
15 with this booklet, and made between Laurence Anthony
16 Wheeler and Green Isle Holdings Trust Limited. We can
17 send you a copy of the deed, if you wish."

18 A. Yes, I presume that is the deed of distribution in
19 specie.

20 573 Q. Yes. Now, is that correct, Mr. Miley?

21 A. It seems it is not correct, but just to put it in
22 context, that letter was written about 11 or 12 years
23 after the transaction took place, and it would have
24 been written following a search of our office, to see
25 if we could turn up a file. I think the end of the
26 letter qualifies that statement as well, if you would
27 like to put it up there.

28 574 Q. Yes, I am going to come to the end of the letter. I
29 think I put this to Mr. Treacy, this morning. You set
30 out there that:

1 .
2 "We regret that the answers to the questions raised are
3 perhaps not as detailed as you would have liked them to
4 be. The answers are based mainly on memory. Some of
5 the files relating to transactions for Lansdowne
6 Construction have been discomposed of and the files
7 which we have left would require many days work in
8 retrieving and going through them in the hope of
9 extracting more precise information. We regret that we
10 could not undertake this operation without
11 remuneration."

12 A. Yes.

13 575 Q. I understand from the correspondence that Messrs. Miley
14 & Miley have had directly with the Tribunal, that
15 Messrs. Miley & Miley operated a ten-year destruction
16 policy?

17 A. By-and-large, yes.

18 576 Q. It would appear that the transaction, the subject
19 matter of the ú350,000 transaction, was concluded at
20 the end of 1977?

21 A. Yes, I suppose.

22 577 Q. That would appear to be the position, isn't it?

23 A. Yes, I think that's right.

24 578 Q. And in January of 1986, it would appear the position
25 was, or the suggestion in the correspondence to the
26 Revenue Commissioners or Mr. Treacy appears to be that
27 the documents weren't available?

28 A. Yes. We weren't able to locate any.

29 579 Q. Well, two things had occurred in this correspondence,
30 Mr. Miley. One issue is in relation to the documents,

1 and the other is the issue as to whether or not you
2 acted for Green Isle Holdings Trust?

3 A. Yes. Well, there was - it comes to the same thing,
4 really.

5 580 Q. Yes. Because if you had, or it had been disclosed that
6 you had acted for Green Isle Holdings Trust, then
7 presumably there would have been a file in connection
8 with Green Isle Holdings Trust which would have
9 contained the information?

10 A. Well, I think, from what we have gone through, that
11 file would have consisted of maybe no more than three
12 or four letters. I just wonder whether, maybe, it
13 might have gotten mixed up with a Lansdowne
14 Construction file or something. We would have regarded
15 that as our client. I really can't say.

16 581 Q. Yes. But insofar as the statement contained at
17 paragraph A of that letter is concerned, Mr. Miley --

18 A. When I wrote that letter, what I said there, as far as
19 I was aware, we didn't act for Green Isle Holdings
20 Trust. That was the state of my belief at the time I
21 wrote it.

22 582 Q. As far as it may have been the state of your belief, it
23 was correct?

24 A. As far as I was aware at the time, it was - I wouldn't
25 have written that letter without making appropriate
26 searches.

27 583 Q. Yes. Leaving that aside, Mr. Miley, from what you now
28 know and what you have now seen.

29 A. Yes, I fully accept we did act in the transaction, yes.

30 584 Q. And that, therefore, it would appear that that

1 statement does not appear to be correct, and it would
2 also be the position, if what the Tribunal has been
3 told by Messrs. Miley & Miley in relation to document
4 destruction is correct, that the Green Isle Holdings
5 file should have been in existence at the time that
6 this letter was written?

7 A. It would have been very marginal.

8 585 Q. Well, if the destruction policy is ten years, Mr.
9 Miley, the deal did not complete finally until December
10 of 1977, so that the destruction should have been ten
11 years later, as I understand how the --

12 A. Well, he would have a dead file register, which would
13 have been the first port of call to see whether - if
14 actually a file existed at all.

15 586 Q. Yes.

16 A. And I just - I could have had a look at our dead file
17 register, if I had known this was going to come up this
18 afternoon, and see whether we ever actually had a file
19 for Green Isle Holdings.

20 587 Q. Yes. You were the person who acted on behalf of Green
21 Isle Holdings Trust in the correspondence with Messrs.
22 Bedell & Cristin, and this transaction?

23 A. Yes, I wrote those two or three, or four letters, yes.

24 588 Q. And you also prepared the deed, I think?

25 A. Yes.

26 589 Q. And you were also subsequently involved in other
27 transactions, not in relation to Monkstown, but in -
28 other transactions?

29 A. Very many more transactions, yes, for Brennan and
30 McGowan.

1 590 Q. Insofar as there is a Jersey connection, Mr. Miley, I
2 think you were involved in other transactions also?

3 A. Yes. Yes.

4 591 Q. Can you recollect when you received this correspondence
5 from the Revenue Commissioners, and Mr. Treacy, what
6 inquiries you conducted to establish whether or not
7 there were any documents that might assist you in
8 furnishing the information sought?

9 A. Well, I can't recall, but I would imagine I would have
10 checked our filing system to see if could I throw up
11 anything.

12 592 Q. Yes. The file reference on the file that is on screen,
13 can you scroll it back down, please.

14 .

15 That is your reference there, isn't it, "5.LMCC"?

16 A. Yes.

17 593 Q. Can you tell me what the "LMCC" stands for?

18 A. This is my secretary's initials, Linda McCarthy.

19 594 Q. If you put up page 160, please. You will see the
20 reference to the letter, which is a letter to Bedell &
21 Cristin, solicitors, where you offer to buy the
22 freehold, bears the reference "5/LMCC"?

23 A. Yes.

24 595 Q. Is that the same reference?

25 A. Yes, it is. Yes.

26 596 Q. Would all of your correspondence have had the same
27 reference, Mr. Miley?

28 A. No, not all of it, except if there might have been an
29 error. It would have No. 5, and the letters that came
30 after it would be the initials of the secretary who

1 typed it.

2 597 Q. And how would your secretary know to what file these
3 documents should be attributed?

4 A. Normally the file would be given to her with the
5 dictation, and when the letters or whatever were typed
6 up, the copies would go on to the file, and then the
7 file would be put back into the filing cabinet.

8 598 Q. So, is it the position that correspondence that bears
9 the reference "5.LMCC" could belong to twenty different
10 files?

11 A. That would be the reference that would be on virtually
12 everything that I dictated.

13 599 Q. And, therefore, it was a matter for yourself and your
14 secretary to decide to which file these should be
15 attributed?

16 A. Yes, my practice would be, when I have got
17 correspondence to deal with, to take the file out of
18 the filing cabinet myself, dictate or do whatever work
19 needs to be done with the file, and then to give that
20 file, together with the tape, to my secretary to type
21 it up. When that was done, she would put the carbons
22 on the file and file it away.

23 600 Q. So, would you have had a very intimate knowledge of
24 your filing system?

25 A. Yes.

26 601 Q. And that you would have known, then, what documents
27 there were or were not in relation to particular
28 matters, because you were the person who, on receipt of
29 the correspondence, decided to which file the
30 particular correspondence would be directed, and in

1 fact, as you have described, took it out of the filing

2 cabinet?

3 A. Yes.

4 602 Q. So would you have had a detailed knowledge of the

5 documents you had handled?

6 A. Oh, yes.

7 603 Q. And in the course of dealing with such transactions,

8 you had dealt with the Monkstown transaction, which you

9 have already described as an unusual transaction?

10 A. Yes.

11 604 Q. And when you received this correspondence from Mr.

12 Treacy, Mr. Stephen Treacy in 1985, in March of 1985,

13 prior to your responding to it in January of 1986,

14 presumably you were conducting inquiries through your

15 files to enable you to give an accurate response to Mr.

16 Treacy?

17 A. Yes, I think that is fair comment. Yes.

18 605 Q. So that between March of 1985, when you received the

19 second letter from Mr. Treacy, and January 1986, when

20 you replied to it, were you unable to locate any file

21 showing that you had acted for Green Isle Holdings?

22 A. All I can do is repeat what is in the letter. I mean,

23 that is the extent of my memory of the matter at this

24 stage; really, just what is recorded in the letter.

25 606 Q. Yes. But we know, Mr. Miley, that what you said in the

26 letter is wrong, even though you may have believed it

27 to be right when you wrote the letter?

28 A. Yes.

29 607 Q. Isn't that right?

30 A. Yes.

1 608 Q. What I am trying to establish now, is that between the
2 time that you got the Revenue Commissioners' - sorry,
3 Mr. Stephen Treacy the official liquidator's inquiry,
4 which had been originally made, I think in January of
5 '85, to your father, and then was repeated to you on
6 the 6th of March, after you had clarified the
7 correspondence aspect, and who the correspondence
8 should be directed; between March of 1985 and the time
9 that you actually responded to the letter, with this
10 response on - sorry, the response at page 3876, in
11 January of 1986, what inquiries did you conduct in
12 order to satisfy yourself that the responses that you
13 were giving to Mr. Treacy were accurate?

14 A. I can't say in any detail, because I have no memory of
15 it, but if something similar were to happen today, I
16 would check to see whether we had a file, I would
17 possibly raise it with my secretary, to see if she
18 could remember anything. I would have done, what I
19 would suggest, are just normal inquiries.

20 609 Q. In the letter you say, if we scroll down the page,
21 please, that you regretted that the answers were not as
22 detailed as you would have liked them to be, that the
23 answers are based mainly on memory?

24 A. Yes.

25 610 Q. That presumably would include the answer in relation to
26 the fact that you did not act for Green Isle Holdings
27 Trust Limited?

28 A. Yes.

29 611 Q. You go on to say:

30 .

1 "Some of the files relating to transactions for
2 Lansdowne Construction have been disposed of and the
3 files which we have left would require many days work
4 in retrieving and going through them in the hope of
5 extracting more precise information. We regret we
6 could not undertake this operation without
7 remuneration."

8 A. Yes.

9 612 Q. So it would appear from that, I suggest, Mr. Miley,
10 that, in fact, you hadn't looked at the files prior to
11 making your response to Mr. Treacy?

12 A. I suppose that is a possibility, but I mean, I think
13 that is also addressing, I think, other issues that Mr.
14 Treacy raised in his letter.

15 613 Q. We will come to those other issues when we come to look
16 at the --

17 A. Really, it is speculation on my part at this stage,
18 really. I really just haven't any memory.

19 614 Q. Well, it is not speculation if you look at the letter,
20 because you say the answers are based mainly on memory?

21 A. Yes.

22 615 Q. Now, if the answers are based mainly on memory, Mr.
23 Miley, I suggest to you that you are not looking at
24 files.

25 A. Well, I do say that it is based mainly on memory.

26 616 Q. Yes. So that your main answer is based on memory?

27 A. Yes.

28 617 Q. You then state insofar as the files are concerned, that
29 "some of the ones in relation to Lansdowne have been
30 destroyed, and the files we have left would require

1 many days work in retrieving and going through them in
2 the hope of extracting more precise information."

3 That, I suggest, suggests very strongly that you had
4 not retrieved the files, nor had you gone through the
5 files of Lansdowne Construction prior to preparing your
6 response.

7 A. When you put it like that, that is a possibility, but
8 --

9 618 Q. Well, I suggest it is reasonable conclusion to draw
10 from the letter, Mr. Miley.

11 A. Well, I wouldn't go quite that far, I think. I mean, I
12 did say that the answers were based mainly on memory,
13 not exclusively on memory.

14 619 Q. Yes.

15 A. The other parts of the investigation would logically
16 have involved looking for files.

17 620 Q. Yes. But it would --

18 A. Perhaps not going through them, maybe just looking for
19 a file which had Green Isle Holdings Trust on it, as a
20 name.

21 621 Q. Yes, but it would appear that insofar as you were
22 talking about the Lansdowne Construction files, that in
23 at least as far as they were concerned, that you had
24 not gone through those files?

25 A. Yes, I think that's right. Yes.

26 622 Q. And that insofar as Green Isle Holdings Trust was
27 concerned, your recollection was apparently similar to
28 your father's recollection, that was you had not acted
29 for Green Isle Holdings Trust?

30 A. That was certainly my memory at the time, yes.

1 623 Q. So that therefore, presumably, you weren't looking for
2 any files, if it was your view that you weren't acting
3 for them?

4 A. Yes. I see what you are saying, yes. I suppose
5 that's not an unreasonable conclusion to come to.

6 624 Q. So that it would appear that prior to furnishing this
7 response to the Revenue Commissioners, you don't appear
8 to have conducted any meaningful inquiry, in terms of
9 documents?

10 A. I wouldn't go that far. I mean, the letter says what
11 it says, and I really can't put it any further than
12 that.

13 625 Q. Very good.

14 .

15 Mr. Miley, we will be returning to that correspondence
16 when we deal with the transaction at Newtownpark
17 Avenue, because the correspondence with the Revenue
18 dealt also with the Newtownpark Avenue transaction.
19 You will have seen that from the documents with which
20 you have been furnished?

21 A. That's the Arippe company, I think.

22 626 Q. That's correct.

23 A. Yes.

24 627 Q. But I think that you also had an involvement in the
25 Donnybrook transaction?

26 A. So it seems, yes.

27 628 Q. Can you outline to the Sole Member, from the documents
28 that you have been furnished with, or as best you can
29 recollect, what your involvement in Bellevue Avenue or
30 Donnybrook was?

1 A. Well, I had absolutely no recollection that I had been
2 involved in it until I saw the briefing papers. As far
3 as I can remember, from looking through those, I think
4 I acted in the initial purchase. I don't know whether
5 it might be easier to take me through the documents.

6 629 Q. If you can tell us, you have looked at all of the
7 documents, Mr. Miley, and I don't expect - I don't
8 think the Sole Member would expect you to have an
9 indepth knowledge of them. In general, if you could
10 outline what you recollect of the Bellevue, the
11 Donnybrook transaction?

12 A. Well, nothing stands out in my memory. It would have
13 been one of thousands of similar type transactions that
14 I think I would have done.

15 630 Q. Again, this was a transaction that appears to have been
16 set up by Mr. Owens?

17 A. Apparently so, yes.

18 631 Q. And again, it was a transaction that resulted in a
19 transfer of a significant amount of money to Jersey?

20 A. So it seems, yes.

21 632 Q. On this occasion, not on the back of a management
22 agreement, but on the back of a license agreement?

23 A. I accept that, yes.

24 633 Q. That appears to have been how it was done. It appears
25 that you acted in or may have acted in connection with
26 the original purchase by Victa?

27 A. I think that's correct, yes.

28 634 Q. Yes. And this was a purchase from Herbert Properties
29 Limited, it was approximately three acres at Bellevue
30 Avenue?

- 1 A. Yes. I think, yes, near Elm Park Golf Club, I think,
2 somewhere like that.
- 3 635 Q. Yes. And I think that if we look at page 217. In
4 October of '78, Mr. Owens was requesting Mr. Wheeler to
5 have certain documents sealed and returned to you. I
6 presume where it says "Miley & Miley" in all of these
7 transactions, Mr. Miley, it is Mr. Stephen Miley we are
8 talking about?
- 9 A. Yes, I think that's right. Yes.
- 10 636 Q. And the documents that are being returned are - that
11 are being sent by Mr. Owens to Mr. Wheeler for sealing
12 are the indenture, Herbert Properties Limited to Victa
13 Investments Limited?
- 14 A. Yes.
- 15 637 Q. And then agreement for sale in duplicate, and a license
16 agreement from Victa to Oakpark Developments Limited?
- 17 A. Yes.
- 18 638 Q. So it would appear that the purchase to Herbert
19 Properties was being completed, and almost immediately
20 a license agreement was being entered into between
21 Victa and Oakpark?
- 22 A. Yes.
- 23 639 Q. And it was on the back of this license agreement
24 between Victa and Oakpark that ú304,000 was transferred
25 to Jersey?
- 26 A. I can't remember, but I accept what you are saying.
- 27 640 Q. Yes. You will see in the documents that that was then
28 distributed, after some deductions, to the ultimate
29 beneficial owners of certain Jersey companies, which
30 were your clients, Mr. Brennan and Mr. McGowan?

1 A. So it seems. But I had no involvement in any of that,
2 so I just didn't know anything about it.

3 641 Q. But did you have an involvement in the purchase, in
4 acting for Victa Investments Limited, insofar as the
5 purchase was concerned?

6 A. I think that's right, yes.

7 642 Q. Can you recollect whether in the license agreement you
8 acted for Oakpark or for Victa, or for both?

9 A. I have no recollection at all. I don't think I have
10 ever acted for Oakpark Developments. That was one of
11 the main Brennan and McGowan house building companies.
12 I don't think my office ever acted for that company.

13 643 Q. You think, if it is likely that you acted for anybody
14 in the license agreement, that you would have acted for
15 the Jersey company?

16 A. Yes, or maybe by providing assistance to Bedell &
17 Cristin. I think they acted for all of the companies,
18 the Jersey companies. I was reluctant to act for them.
19 I think I probably provided conveyancing advice on an
20 informal basis to them.

21 644 Q. Yes. When you say that you were reluctant to act for
22 the Jersey companies, why were you reluctant to act for
23 the Jersey companies?

24 A. Because I didn't want to be categorised as an agent of
25 any of the vendors for Capital Gains Tax purposes.

26 645 Q. And, in fact, that did ultimately happen; there was -
27 in fact, on this transaction the Revenue did raise a
28 levy on Miley & Miley?

29 A. There was an attempt made by the Revenue, I think,
30 which they abandoned --

1 646 Q. To raise a levy --

2 A. -- when they understood the situation.

3 647 Q. -- of ú15,000 Capital Gains arising out of this

4 transaction levied on you?

5 A. Arising out of some transaction, because they didn't

6 specify, in fact, which particular one it was.

7 648 Q. I think - we'll come to deal with that. In fact, you

8 may be very well correct. It may be the next

9 transaction, Mr. Miley, but insofar as this transaction

10 was concerned, is it the position that you accepted

11 instructions from Bedell & Cristin to act as agent for

12 these Jersey companies in Ireland, but only as agent?

13 A. No, I think the opposite. I think I refused to act for

14 the companies at all. And Bedell & Cristin acted,

15 represented these companies. I provided Irish

16 conveyancing advices to them on an informal basis, to

17 Bedell & Cristin.

18 649 Q. So that you did not represent at any stage the Jersey

19 companies?

20 A. That is my memory of it, yes.

21 650 Q. When you sign a document as agent, Mr. Miley, for a

22 Jersey company, what does that mean?

23 A. It means that you sign it as agent. I think I did see

24 one document, which must have slipped through, but that

25 wasn't the intention.

26 651 Q. But you did sign, I think in connection with this

27 transaction, as agent, you signed for Victa Investments

28 as agent, isn't that right?

29 A. I think I saw one document in the brief, all right, if

30 it was this transaction.

1 652 Q. Yes. How did that arise then, Mr. Miley, if you had
2 taken a decision not to act for any of these Jersey
3 companies; that you did, in fact, act in connection
4 with this transaction as agent?

5 A. I can't say. And the document, if I remember it, where
6 it appeared in the brief, was it wasn't a complete
7 document, and the circumstances surrounding it, I don't
8 think were clear from the brief, either. So I can't
9 answer that question, I am afraid.

10 653 Q. The document in question is the license agreement,
11 Victa to Oakpark Developments Limited, that is referred
12 to at No. 3 of the letter that is on screen.

13 .
14 If you want to look at page 4117, please, which is an
15 agreement of the 29th of November, 1978. And this is
16 the license agreement between Victa and Oakpark, as a
17 result of which Oakpark agreed to pay ú48,450 to be
18 allowed enter and build 19 houses or - on 19 sites at
19 Bellevue Avenue. And also, I think, provided for an
20 interest-free loan on the next page, 4118, of ú264,100.
21 And when those two sums were added together, it
22 provided the ú304,000 that was transferred to Jersey.

23 .
24 You will see on bottom of the next document on screen,
25 that it is signed by --

26 A. I think that is Mr. Wheeler's signature, the top one.
27 I don't recognise the bottom one.

28 654 Q. Then on the next page, 4119, it is signed by Mr.
29 Michael Foley and Mr. Bernard Cooke, I think, for
30 Oakpark?

1 A. I think that's right, yes.

2 655 Q. Then there is an addendum to the document. If you
3 scroll down through that page, which is signed by you
4 as agent?

5 A. Yes.

6 656 Q. The attendance is dealing with the repayment of the
7 loan of ú264,100 that was being paid by Oakpark to
8 Victa?

9 A. Yes.

10 657 Q. So if you had taken a decision, Mr. Miley, not to act
11 on behalf of any of these Jersey companies, how was it
12 that you were signing this as agent for Victa?

13 A. I have no explanation for that, but I obviously
14 shouldn't have done so.

15 658 Q. Were you acting as agent for Victa?

16 A. No.

17 659 Q. Excuse me one moment, Mr. Miley.

18 .

19 You must have been aware, then, from your knowledge of
20 this particular document, with which you appear to have
21 had some association, that a sum of around 304,
22 ú305,000 was to be paid to Victa?

23 A. Yes.

24 660 Q. And this sum was, I think, transferred to Jersey to the
25 Bedell & Cristin client account at Chase?

26 A. Yes.

27 661 Q. And subsequently distributed?

28 A. I presume so, yes.

29 662 Q. You gave further advices, I think, in connection with
30 Victa, when difficulties arose by Victa being

1 liquidated prematurely?

2 A. Yes, I think there was - there is a difficulty in
3 Jersey law, when a company is liquidated, in the sense
4 that they don't provide for the appointment of a
5 liquidator, so if there is unfinished business, it
6 causes a difficulty in trying to deal with it, because
7 there is nobody in charge, if you like. I think it
8 happened, not in relation to the Victa company, but I
9 think another one as well.

10 663 Q. It happened in connection with Arippe in Newtownpark
11 Avenue?

12 A. Yes.

13 664 Q. And there was --

14 A. And there was a considerable doubt as to the correct
15 way to deal with the vesting of the profit in the
16 successor in title to the liquidated company.

17 665 Q. And I think you gave certain advices to Messrs. Bedell
18 & Cristin on behalf of Victa Investments, in connection
19 with the difficulty in which they found themselves by
20 virtue of Victa Investments Limited having been
21 liquidated and yet still owning property in Ireland?

22 A. Yes.

23 666 Q. It was a similar property that arises in connection
24 with the Arippe case?

25 A. Yes.

26 667 Q. Which were both, I think, happening at approximately
27 the same time?

28 A. I would imagine so, yes.

29 668 Q. And you furnished these advices, presumably, for the
30 benefit of Victa or for the benefit of Messrs. Bedell &

1 Cristin, Victa's then solicitors; is that the position?

2 A. Yes, I presume so. Yes.

3 669 Q. Your Letter of Advices is, in fact, at page 551. And

4 presumably, Mr. Miley, you would have been charging for

5 this?

6 A. I hope so, but I can't remember.

7 670 Q. I think it is the position that you discovered that

8 having - initially your firm had indicated to the

9 Tribunal that you did not have any Victa Investments

10 Limited files, isn't that right? You hadn't acted for

11 Victa?

12 A. I think - my partner, John Walsh, dealt with that. I

13 think he initially told the Tribunal that we had no

14 files. Then I think he discovered on our dead file

15 register that there were two files, I think, with that

16 name on them which had been destroyed. If I remember

17 correctly, that is the position.

18 671 Q. Can you recollect whether Mr. John Walsh, in preparing

19 that schedule of files, indicated that there was a file

20 in existence of Green Isle Holdings Trust in connection

21 with the first transaction, the Monkstown transaction?

22 A. Well, he dealt with the preparation of that schedule

23 himself. I wasn't involved in it, so I had no

24 conversation with him about it at all.

25 672 Q. You weren't involved in the preparation of the schedule

26 at all. Is that the position, Mr. Miley?

27 A. That's correct.

28 673 Q. Right. But you were involved yourself in

29 correspondence directly with the Tribunal?

30 A. Yes.

1 674 Q. And I think you did indicate to the Tribunal that, to
2 the best of your recollection, you had never acted for
3 any of the Jersey based companies?

4 A. That's right, yes.

5 675 Q. Is that, in fact, actually correct?

6 A. Yes, I think it is. Yes.

7 676 Q. Is it not the position that you furnished advices to,
8 in this particular instance, in relation to the matter
9 that is on screen, but also, as we have seen, you acted
10 on behalf of Victa in the license agreement with
11 Oakpark?

12 A. As I say, I believe that I dealt with Bedell & Cristin.
13 I didn't deal with the companies. That is my memory of
14 it.

15 677 Q. And did you not also act for Victa Investments Limited
16 in its acquisition of the lands, at Bellevue Avenue?

17 A. All I can go on is what is in the briefing documents.
18 I have no recollection of these matters.

19 678 Q. I accept, Mr. Miley, that there doesn't seem to be any
20 recollection insofar as you have indicated to the
21 Tribunal that you didn't act for any of these Jersey
22 companies. Is that, in fact, correct?

23 A. Yes, it is. And I am fairly confident in saying that,
24 because I was quite deliberate in ensuring that I could
25 not be classified as an agent for tax purposes for any
26 of these companies. So that is why I chose not to
27 represent them.

28 679 Q. But you certainly acted for Victa Investments in
29 connection with the license agreement with Oakpark?

30 A. Well, I think again - I can't answer that without

1 seeing the file, and of course that is not available to
2 us any more. It has been destroyed. Again, I think it
3 was probably a question of preparing documents for
4 Bedell & Cristin.

5 680 Q. Are you saying that it is your recollection that you
6 prepared the license agreement between Victa and
7 Oakpark at the request of Bedell & Cristin?

8 A. I have to say, firstly, I have no recollection at all.
9 That document, though it was prepared by my office, I
10 recognise the print, so there is no doubt about that,
11 but --

12 681 Q. Isn't it the position, Mr. Miley, that in the
13 Sandymount transaction, you acted on behalf of Whisper
14 Investments and Glenree Investments?

15 A. I have no memory.

16 682 Q. If you would like to look at the documentation that has
17 been furnished and that has been furnished to you
18 through the Tribunal. If you look at page 4364, which
19 is a letter from you to Mr. Kevin Smyth setting out
20 various documents of title. If you turn to page 4364.
21 This is a letter from you to Mr. Kevin Smyth in
22 connection with the Sandymount transaction?

23 A. Yes.

24 683 Q. Okay. And you set out a number of title documents?

25 A. Yes.

26 684 Q. And the leasehold interest in various properties.

27 There were four properties approximately being
28 purchased?

29 A. Okay.

30 685 Q. If you look at the next page, 4364, you will see No. 3

1 deals with various interests, No. 76, and No. 4 deals
2 with the field at the back of Tritonville Road.

3 .

4 If you turn to page 4366, at paragraph 6 you enclose
5 copies of the four purchase deeds under which "The
6 properties are being acquired by my clients."

7 A. Yes.

8 686 Q. "If your clients are purchasing the property, a
9 conveyance will be made by Glencree Investments
10 (Channel Islands) Limited and Whisper Investments
11 Limited of their interests in the property to your
12 client, and the deed in favour of Kilnamanagh will be
13 redone so that this part of the transaction is carried
14 out by way of sub-sale."

15 A. Yes.

16 687 Q. And, "The properties being acquired by my clients"
17 included the properties that were being acquired by
18 Glencree Investments (Channel Islands) and Whisper
19 Investments Limited?

20 A. I would have had to have a look at the whole
21 transaction, to see what was involved there, but I
22 notice, as you were scrolling down the letter, that the
23 title on the letter was Brennan and McGowan, which
24 would indicate that that is who I considered my clients
25 to be at that stage.

26 688 Q. If you look at page 4379, Mr. Miley, in connection with
27 the same transaction.

28 .

29 You will see that you return the requisitions on title,
30 "and without prejudice, the closing on Friday." And

1 you ask Mr. Smyth to have the draft deeds for approval,
2 "as I have arranged for someone to go to Jersey
3 tomorrow morning to have them executed."
4 A. Again, looking at the title of that letter, Mount
5 Merrion Properties Limited was the Pembroke company, I
6 think.
7 689 Q. Yes. We are going to go through the title documents,
8 Mr. Miley, so that there is no doubt about it.
9 A. It was just the title of the letter. The title of the
10 letter - the way I dictate my letters indicates who the
11 clients are, you know, so in that case Kilnamanagh
12 Estates Limited would have been the only one of those
13 three companies that I would have acted for.
14 690 Q. Yes. I see. Well, I think we can clarify that for
15 you, because if we look at page 4397 you will see now,
16 at this stage, that you have put on the title of the
17 correspondence the Channel Islands companies. Page
18 4397, please.
19 .
20 Still dealing with the same transaction, Mr. Miley, at
21 Sandymount, you will see now that your clients above
22 the line are "Whisper Investments Limited and Glencree
23 (Channel Islands) Limited, and Durkan Brothers (Dublin)
24 Limited, property at Tritonville Road."
25 .
26 You set out a letter of consideration or undertaking to
27 Messrs. T K Smith Foy "in consideration of them closing
28 the sale today."
29 .
30 You refer to various conveyances and matters that will

1 be done. That based on what you have just told the
2 Tribunal, Mr. Miley, that would indicate that you did
3 indeed act on behalf of both of these Channel Islands
4 companies, in so far as this transaction is concerned?

5 A. Yes, that wouldn't persuade me that I had, but I have
6 no real memory of these things, so I mean, I am in a
7 difficult situation here.

8 691 Q. I don't want in any way, Mr. Miley, to be unfair to
9 you. But I had understood your evidence to the Sole
10 Member to be that it was your normal practice to place
11 the names of the clients for whom you were acting above
12 the line, or on the heading of the paper?

13 A. That is what I said my normal practice --

14 692 Q. Have you any reason to think that this correspondence
15 was sent otherwise than in accordance with your normal
16 practice?

17 A. Except there is, apparently, other aspects of this
18 transaction that you had brought to my attention
19 involved sub sales, Kilnamanagh Estates Limited was
20 mentioned. I mean, if I could have seen the documents
21 then I could have probably, I could probably make a
22 better fist of answering the question.

23 693 Q. You have, in fact, been furnished with all of the
24 documents in title in connection with this transaction.
25 They are in the circulated book of documents, Mr.
26 Miley, all of them, which clearly now - that insofar as
27 some of the leasehold interest in the properties at
28 Tritonville were concerned, they were purchased from
29 Mount Merrion Estates by Whisper Investments and sold
30 on directly to Durkan Brothers.

1 .
2 We can go through the documents in detail, Mr. Miley.
3 And as a result of this transaction a sum of almost
4 \$80,000 was transferred to Jersey, to an account of a
5 company called Keno Investments Limited?

6 A. Well, I accept fully what you are saying, but --

7 694 Q. Yes. Have you - why do you have a difficulty,
8 Mr. Miley, in accepting that it appears that you did
9 act for some of the Jersey companies?

10 A. Well, I mean, the paperwork here is being given to me
11 selectively. I have told you my general memory of
12 these transactions, which took place, give or take,
13 over 20 years ago, was that I didn't represent any of
14 these companies. I had a very deliberate and
15 particular reason for not representing them. I have no
16 reason now to change my mind.

17 695 Q. Do you not accept that you did, in fact, act on behalf
18 of Whisper and Glencree, in so far as the purchase of
19 certain interests in the properties at Tritonville were
20 concerned?

21 A. Not on the strength of what I have just said, and what
22 I have seen.

23 696 Q. Yes. You were furnished with all of this
24 documentation, Mr. Miley, together in one piece, the
25 documentation relating to Tritonville, which reflected
26 Messrs. Smith Foy's conveyancing file, because they
27 had, in fact, retained their file in connection with
28 the matter, and were able to furnish it to the
29 Tribunal.

30 .

1 And you were also furnished with all of the documents
2 of title, and copy indentures and matters such as that
3 sort.

4 A. Over the last few months I have been furnished with, I
5 think, about 6,000 pages of documents, which, as I
6 said, I have scanned. I have written to the Tribunal
7 and asked them to draw my attention in particular to
8 the areas that they would like me to concentrate on.
9 The Tribunal declined to do that.

10 697 Q. I think the Tribunal identified for you in
11 correspondence initially, Mr. Miley, the focus of the
12 Tribunal's inquiry. But if I can take you on now,
13 briefly, to deal with the Stephen's Green transaction,
14 in which it would appear that you, insofar as Keno
15 Investments was concerned, which purchased the freehold
16 of Stephen's Green, it would appear --

17 .
18 CHAIRMAN: Ms. Dillon, we are coming up to just the
19 four o'clock mark. If you are going on to another
20 transaction I think we might raise, because our staff
21 --

22 .
23 MS. DILLON: Mr. Miley has a difficulty in the morning,
24 Sir, at half past ten. In case of Mr. Miley, I was
25 wondering would you consider sitting at 11:30. The
26 other witnesses have gone back to 2:15. One is, I
27 understand coming, travelling from England, in any
28 event. And I don't know if Mr. Miley --

29 .
30 CHAIRMAN: I will facilitate Mr. Miley. If I can get a

1 witness to slot in, I would also sit at whatever time
2 you want me to. If Mr. Miley wants to sit at half past
3 11 - will half past 11 meet your convenience?

4 A. It is just that I had a commitment at eight o'clock in
5 the morning.

6 .

7 CHAIRMAN: All right.

8 .

9 We will look after that. Half past 11, then, tomorrow
10 morning.

11

12 MS. DILLON: Yes, Sir. There is no other witness.

13 .

14 CHAIRMAN: Okay. Thank you very much.

15 .

16 THE TRIBUNAL WAS THEN ADJOURNED UNTIL THE FOLLOWING

17 DAY, WEDNESDAY THE 7TH OF NOVEMBER, 2001, AT 11:30

18 A.M..

19

20 .

21

22

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