

THE TRIBUNAL RESUMED AS FOLLOWS ON FRIDAY, 4TH FEBRUARY

2000 AT 10:30AM:

CONTINUATION OF EXAMINATION OF DENIS FOLEY BY MR.

COUGHLAN.

CHAIRMAN: Good morning, Mr. Foley. Please sit down. Mr.

Foley, I am not losing sight of the fact that there's considerable pressure and public interest in your evidence, that you haven't been all that well in the recent past so if you feel at some stage in the morning you want to take a brief break, please let me know.

A. Thanks very much, Chairman.

Q. MR. COUGHLAN: Thank you, Mr. Foley. Now, I think yesterday, Mr. Foley, we were looking at the photocopies of statements you received from Mr. Traynor?

A. That's right, Sir.

Q. Perhaps towards the beginning of 1983 or thereabouts, would that be correct, they showed the balance

A. That's right, up to '82, it must have been '83, yes.

Q. Yes, the beginning of '83 it must have been?

A. That's right, Sir.

Q. I think I was asking you again about the piece of paper which you received from Mr. Traynor which had the words "Klic, œ72,893 Stg" written on it.

A. That's right.

Q. And I think that you do remember receiving it from Mr.

Traynor?

A. I do remember receiving it, Mr. Coughlan, but what I can't recollect is whether I met him or it was posted to me, to be honest with you.

Q. Very good. Well that's what I am trying to ascertain in the first place, Mr. Foley. You undoubtedly furnished to the Tribunal this particular piece of paper?

A. I did.

Q. There's no doubt about that.

A. Yeah.

Q. And the words "Guinness & Mahon, position 3/3/88, œ82,688 per Martin Keane" were words written by you?

A. I had a phone call discussion with Mr. Keane.

Q. As a result of a phone call discussion with Mr. Keane?

A. Yeah.

Q. And did you, when you wrote that, were the other words already on the piece of paper?

A. Klic?

Q. Klic 72 odd thousand pounds?

A. That was on the paper.

Q. So before you wrote anything, all you had was this piece of paper which was torn off the end of a larger sheet of paper?

A. That's true, Mr. Coughlan.

Q. Piece of unlined paper?

A. That's right.

Q. And all that was on it were the words "Klic œ72,893 Stg"?

A. That's correct.

Q. You believe you got that from Mr. Traynor?

A. He was the only man I was dealing with and I only met Martin Keane once and that was on the 5th October 1979 so it had to be from Mr. Traynor.

Q. What I am asking you about is to think about it, do you actually remember receiving this from Mr. Traynor?

A. I certainly know I got it from Mr. Traynor, whether I got it by meeting him or by post, I am not sure.

Q. Well, just taking those alternatives and dealing with the question of receiving it by post in the first instance, from the documents which you furnished to the Tribunal, it would seem, and correct me if I am incorrect in this, that you kept whatever you received from Mr. Traynor, isn't that correct?

A. I kept whatever I received from Mr. Traynor but as far as I remember, there was a note, and I can't understand what happened it, I did move it from a file into a file at one stage but I thought there was a note with it marked 'Guinness & Mahon and Des'.

Q. That note you think related to the statements or the photocopies?

A. The statements, oh yeah, the statements, sorry.

Q. But that's - you think that may have been some form of a note or compliment slip?

A. Something like that, I just can't

Q. Very good. Does it seem likely you would have just

received something in the post with the words "Klic €72,893 Stg" written on it without an accompanying note or letter?

A. Well as far as I remember, that's all I got from him and whether it was by post or meeting him because I was convinced I only met him twice after '79 and I can't recollect meeting him at that stage.

Q. But could somebody else have given it to you?

A. No, Sir, no, nobody knew about my account with Des Traynor. Only Des Traynor, Martin Keane and myself at that stage.

Q. I am sorry I have to dwell on this, Mr. Foley, but we really have to ascertain whether you received it by post and would you agree with me that that seems unlikely that you would have just received a piece of paper torn off with the words "Klic €72,893"?

A. I tried to go back in my memory that last night, Mr. Coughlan, and I definitely got it from Mr. Traynor. At what stage, I can't say. I do know I got it before '88, sometime before '88.

Q. Well that would seem correct, Mr. Foley, because the balance was showing at 72 odd thousand pounds.

A. That's correct.

Q. And in '88 it was showing at €10,000 more so it would seem that it must have been referable to a period prior to '88?

A. That's right.

Q. You do not actually recollect receiving it in the post, do you?

A. I don't really, no, I don't.

Q. You do not recollect physically receiving it from Mr. Traynor, do you?

A. I don't, honestly I don't but I I have a faint recollection that I got it from Mr. Traynor. How I got it from him, I can't say.

Q. Well, is your faint recollection that you got it from him in Dublin?

A. In Dublin, yeah.

Q. Not down in the Brandon or in Kerry?

A. No.

Q. What I was asking you then, did you ever meet Mr. Traynor outside the premises of Guinness & Mahon in Dublin? That is now, I am not talking about meeting him in Kerry.

A. No, I met him in Dublin at his office in 42 Fitzwilliam Square.

Q. That was much later.

A. Much later.

Q. But I am talking about at the time that you could have received this.

A. No, no.

Q. So do you believe that it was in the premises of Guinness & Mahon that you received this from Mr. Traynor yourself?

A. I just can't recollect, Mr. Coughlan. It must have been I just can't, I gave everything as I had it to the Tribunal and I just can't remember that particular slip.

Q. Because if one then looks at the first page of the

photocopy of a statement with the letterhead cut off which you received from Mr. Traynor around 19 the beginning of 1983, we have been through this yesterday, the words "Klic Investments Limited, Martin Keane now left see Padraig Collery, Guinness & Mahon Limited," are in different pen to the other words, isn't that correct?

A. That's correct.

Q. I'll just hand you the original so that you can just look at that. (Document handed to witness.) Unfortunately we can't show colour on the screen but the words "Klic Investments Ltd, Martin Keane now left, see Padraig Collery, Guinness & Mahon Limited" are written in light blue felt type pen, isn't that's correct?

A. That's correct.

Q. And the other words are written in what looks like a ball point pen and seems to be the same ball point pen.

A. That is right.

Q. Now, the "€50,000 Guinness & Mahon Limited, October 1979," was that written on the, is that written on the document at the same time as the €50,000 at the bottom?

A. Yes I would say so.

Q. It appears to be, doesn't it?

A. Yes.

Q. And "In this name," and the words "Per" are also written in the same biro or ballpoint pen, isn't that correct?

A. That's right.

Q. And can we take it they must have been applied to the

document at the same time as the

A. I would say so, yes.

Q. What was written on the very top and the €50,000 at the bottom?

A. Yeah, yeah.

Q. And then the words, "Klic Investments Limited Martin Keane now left, see Padraig Collery, Guinness & Mahon Limited" they all seem to have been applied to the document or written on the document at the same time?

A. That's right, Sir.

Q. Now the words "Klic Investments Limited, Martin Keane now left, see Padraig Collery, Guinness & Mahon Limited," I just want to be fair to you about this now, do you think that the words "Klic Investments Limited, Martin Keane" and the words under that "Guinness & Mahon Limited" were applied to the document at the same time as "Now left, see Padraig Collery"? Does that appear to you all part of the same writing at the same time?

A. "Klic Investments Limited, Martin Keane now left, see Padraig Collery, Guinness & Mahon Limited" I feel that "now left, see Padraig Collery" was written later, I have that feeling.

Q. Very good.

A. I feel that was written later.

Q. Very good. So the words, we will just point that out, "Now left, see Padraig Collery," you think that may have been written later than the other words, "Klic Investments

Limited"?

A. I have no doubt. It's different writing and it had to be later.

Q. Very good. That could only have been applied to the document after Mr. Keane had left Guinness & Mahon, isn't that correct?

A. That's correct, Sir.

Q. So that must have been applied sometime after, around 1988 or thereabouts, it's around the time Mr. Keane left Guinness & Mahon, we will get the exact date but he left in the mid to late eighties?

A. Yeah.

Q. So can we take it that you had that particular document out or these documents, that is the particular photocopies of the statements out and you had put something on them in 1988 or sometime after that?

A. I certainly put "now left, see Pdraig Collery" after

Q. 1988?

A. After Martin Keane leaving.

Q. Yes. And when do you think "Klic Investments Limited, Guinness & Mahon" would have been applied to the document?

A. I'd say when I got the document.

Q. And when do you think the words "€50,000, Guinness & Mahon, October 1979"?

A. I think that could have been much later still because

Q. Much later still?

A. I would say when I got my heart attack and when I came

back, I was trying to fill in details just in case anything was going to happen to me, because I had been told to try and get my affairs sorted out and that was much later.

Q. Much later. So that was after 1988?

A. That was no, that would be around '87 I'd say.

Q. Around '87?

A. It might be the end, it might be into '88.

Q. Very good. Because it would appear that those particular words could only have been put on afterwards, because you could make no sense of how "in this name" or "per Martin Keane" could be applied to make sense of the whole document?

A. The reason I did that, Mr. Coughlan, so that if anything had happened to me at the time, whoever would get this documentation would see what it meant. I had "Klic Investments Limited, Martin Keane, Guinness & Mahon Limited" and then added in at some stage after Martin Keane leaving, "now left, see Pdraig Collery" and then I added, definitely after '87, "€50,000 lodged Guinness & Mahon, in this name, per Martin Keane, €50,000".

Q. Yes. Now, when you added the writing to this particular statement or photocopy statement, can we take it that you already had this sheet of paper with the words, "Klic €72,893 Stg" written on it?

A. I think I would have had, yeah because it had to be before '88.

Q. And

A. Sorry now.

Q. I beg your pardon?

A. Yes, let me see now, I had to get that statement sometime before '88, that one with Klic, 72

Q. This piece of paper?

A. That's right.

Q. It's not a statement, just a piece of paper.

A. A piece of paper, yeah.

Q. And you had that piece of paper when you wrote on the documents, is that correct?

A. When I wrote on this.

Q. When you wrote on the first photocopy statement?

A. Yeah, I would say so because I just filled in "Klic Investments" here "per Martin Keane," I just wanted whoever would get that document would see what was the position, that I had €50,000 lodged in Guinness & Mahon, October 1979.

Q. But you can't recollect when you got the particular piece of paper with the words "Klic" written on it?

A. I certainly can't, Mr. Coughlan.

Q. Because what I want to ask you is when you first went to Mr. Traynor in 1979 and you gave him the €50,000, it was for the purpose of him looking after it for you but to make sure that it never surfaced in your own name, is that correct, at that time?

A. Whatever about my own name, I obviously wanted him to invest it for me.

Q. Ah but it's very important for your own name, it wasn't going into an account in Guinness & Mahon in the name of Dennis Foley?

A. No, I understood it was Klic Investments and my name was on it.

Q. That's what I wanted to ask you. Are you sure that it was in 1979 that you heard Klic Investments referred to or when was it when you received this piece of paper?

A. No, Sir, it was in '79 he told me.

Q. After you received the statements in 1983, there was obviously an accrual to the balance on your account, isn't that correct?

A. That's right.

Q. Because you received this blank sheet of paper with the words "Klic, 72,000 odd pounds" showing on it.

A. Yeah.

Q. You didn't receive any statements in the intervening period?

A. No, the statements I received were up to '82.

Q. December of '82?

A. Yeah, I received them in '83.

Q. You didn't receive any further statements?

A. No.

Q. Did you discuss that with Mr. Traynor?

A. Not to my knowledge. I did go to him in '91, no I did not no, Mr. Coughlan, no, I did not discuss it with him.

Q. Did you have a discussion with him about the fact that you

wouldn't be receiving statements?

A. No, no discussion but I could get the balance, he told me that, you know.

Q. Just to ring up and ring up whom?

A. Himself.

Q. To ring up himself?

A. Ring up himself and he'd arrange to get the balance, yes.

Q. How often did you ring up?

A. I didn't do that often at all.

Q. Well approximately?

A. When I got that statement, I think that was one of them showing Klic Investments, and

Q. Well now was that a ringing up of Mr. Traynor or a meeting with Mr. Traynor?

A. When I got that, I had phoned him. Where I collected it from him or got it off him, I am not sure. I just I am not sure, to be honest.

Q. But just to be clear about that, you are not sure whether you actually got the physical information from him in this note form or whether you got it over the phone, that's what you are not sure about?

A. I got it, I did ring him for the information but how I collected it or how I received it, I can't say but I certainly had phoned him.

Q. Okay. That was that occasion.

A. Yeah.

Q. Was there any other occasion?

A. The next occasion then, I didn't get him but I got on to Martin Keane, got through to Martin Keane.

Q. I just want to

A. Right.

Q. deal with that. If we put up the note, please. You had made contact with Mr. Martin Keane according to your own note?

A. That's right.

Q. And it looks as if it must have been after the, on or after the 3rd March of 1988, is that correct?

A. That's the date I actually got the information.

Q. That's the date you actually got the information?

A. Yeah, that's the date I got the information.

Q. Well how did you receive that information?

A. I got it over the phone. I had phoned him a week previous as far as I can remember.

Q. Phoned who?

A. Martin Keane.

Q. Why did you phone Martin Keane?

A. Because I had been looking for Mr. Traynor and then I couldn't get him and I contacted Martin Keane.

Q. Now, it must have been after that date then that you added the words to the written on the photocopy of the first statement that Martin Keane was now left, see Pdraig Collery, is that correct?

A. That's correct, that was the information I had.

Q. Well who told you

A. As far as I know, I thought I got a note on it, a letter on it or else

Q. No, you got well all we have seen is a letter you received in relation to your resident loan account or your resident deposit account from Mr. Collery in 1990.

A. Yeah.

Q. But in 1998 or sometime after the 3rd March of 1988, I beg your pardon

A. Yeah.

Q. You must have added to the note that you had written on the statement or copy statement, "Now left, see Pdraig Collery"?

A. That's right.

Q. So you had to somebody had to tell you or you had to find out that Martin Keane was gone from Guinness & Mahon and that you were to see Pdraig Collery, is that right?

A. That's right, yeah.

Q. And who told you that?

A. As far as I can recollect, it was Des Traynor.

Q. Well tell us about that. What contact had you with Mr. Traynor about that?

A. I phoned him there in connection with the account.

Q. You phoned him where?

A. At the number at that stage I think it was, I had a number for him which he had given me.

Q. Who had given you?

A. Des Traynor.

Q. When?

A. When? I think he gave me a number, he actually gave me, I am not sure when I got it but I certainly had a number any how and can I just reflect on that for a moment?

Q. Yes indeed, please do. Perhaps I can help you by taking you through it stage by stage, if I can.

A. Right.

Q. When you if we go back to 1979.

A. Right so.

Q. When you went to see Mr. Traynor.

A. Yeah.

Q. You met for a very short period, you said that Martin Keane was called into the room?

A. He came into the room, that's right.

Q. And I think Mr. Keane has informed the Tribunal that Mr. Traynor may have used words like this, that if he wasn't there, that means if he was busy doing something, that Mr. Keane could take any inquiries from you, would that be correct?

A. I think that's correct, I think so, yeah, that's correct.

Q. Now, we come to a period where you have written matters on the statement sometime after you had received the statement?

A. That's correct, yeah.

Q. And the words, "Klic Investments, Martin Keane, Guinness & Mahon Limited" were written at one time.

A. That's correct.

Q. Somebody actually gave you that information, isn't that correct?

A. That's correct.

Q. And it was Mr. Traynor gave you that information, do you think?

A. I had that information there because when in '79 I just wanted to put it on paper, it was Klic Investments there and if he wasn't available, as far as I can remember, he mentioned Martin Keane.

Q. That you could ring up to make inquiries of?

A. Yeah, yeah, if he wasn't there.

Q. If Mr. Traynor wasn't there?

A. That's correct, Sir.

Q. Now, at the time or around the time that you had ill health, you were sorting out your affairs and you put the words "€50,000 lodged Guinness & Mahon Limited, October 1979, in this name" and then you have "Per Martin Keane" and "€50,000" at the bottom. That would have been added around that time, is that correct?

A. That is correct, Sir.

Q. Now, I think you weren't attempting to suggest that the information that you had lodged the money or that you had been told that it was Klic Investments Limited came from Martin Keane. This was just a reference to the

A. Just a reference, nor did I, I would think of it, Sir, I just see there "per Martin Keane now left, see Pdraig Collery," that's indicating to me I got the information

from Martin Keane that he was leaving.

Q. That he was leaving

A. Now I think, I am only suggesting that now.

Q. I know you are only suggesting it, what I want to know is this, you had never heard of the name of Mr. Collery, or had you, before that?

A. Not to my knowledge, no.

Q. Now, you had noted the balance on the account as of the 3rd March 1988 as being per Martin Keane?

A. That's correct.

Q. And you say that you had that was the day you received the information, the 3rd March 1988?

A. That was the day I got the information over the phone.

Q. But you had requested it perhaps a week earlier?

A. Sometime earlier, yeah.

Q. And you say that you had rung up Guinness & Mahon, is that correct, the week before?

A. I rang up and I thought I may have been trying to contact Des Traynor but I actually contacted Martin Keane.

Q. Do you know how that came about?

A. Because he had said to me early on if he wasn't available, to contact Martin Keane.

Q. Right. And then when you got this information, you subsequently added to the note on the first page of the photocopy statement, "Now left, see Pdraig Collery."

A. That's right.

Q. And what I want to know is who told you that you should see

Padraig Collery?

A. Speaking from memory, but I think again it was Martin Keane
but again, I

Q. You have to be very careful.

A. I accept that, Mr. Coughlan.

Q. You have to be very careful about this now, Mr. Foley.

A. I have to be

Q. To be as sure as you possibly can be.

A. Two people could have told me, it was either Des Traynor or
Martin Keane.

Q. Yes. Yes. Can I ask you this on the occasion when you
say that Mr. Keane was able to furnish you with information
which was just the state of the account, the balance on the
account, is that correct?

A. That's correct.

Q. That information took a week to come to you, isn't that
right?

A. Well, I said I'd phone him back again and I could have
phoned him the following day I think or give him a day or
two on it he said and I phoned actually about a week
later.

Q. And spoke to him?

A. Spoke to him, yes, certainly.

Q. Did you ask for him?

A. Pardon?

Q. Did you ask for him?

A. I did, I asked for Martin Keane.

Q. You didn't ask for Mr. Traynor on that occasion?

A. No, no.

Q. Had you spoken to Mr. Keane about Mr. Traynor?

A. No.

Q. Did you know where Mr. Traynor was?

A. No, I did not, no.

Q. Did you know that Mr. Traynor had left the bank nearly two years previously?

A. That's I knew he had left, I wasn't sure when he left the bank. I wasn't sure when he left because when I phoned first, I'd be looking for Mr. Traynor and they told me Mr. Traynor wasn't there. I asked then for Martin Keane.

Q. You say you phoned and you were told Mr. Traynor wasn't there?

A. Yeah.

Q. Were you told Mr. Traynor was no longer with the bank?

A. I wasn't told that, no.

Q. You were just told that Mr. Traynor wasn't there.

A. I asked then to speak to Martin Keane.

Q. And when you spoke to Mr. Martin Keane, did you say anything to Mr. Traynor?

A. I told him I was interested in my account, Klic Investments.

Q. Did you identify yourself as Denis Foley?

A. I did, Denis Foley.

Q. And he didn't tell you that Mr. Traynor had left the bank?

A. No, I didn't have that conversation, I got the impression

he was busy.

Q. He was what?

A. That he was very busy at the time.

Q. That Mr. Traynor was very busy?

A. No, Mr. Keane.

Q. That Mr. Keane was very busy. And the upshot of all that was you made a note recording the balance as was given to you, is that correct?

A. That's correct.

Q. And the date on which it was given?

A. That's correct.

Q. Is that all the information you got on that occasion?

A. That's all.

Q. The only information you got. No other information?

A. No, no, no other information.

Q. So we now come to a stage where you are in possession of a further piece of information and that is that Martin Keane has now left, see Pdraig Collery, isn't that correct?

A. That's right.

Q. Now that information wasn't given to you by Martin Keane as of the 3rd March 1988, isn't that correct?

A. No, it wasn't given to me, no.

Q. So somebody had to give you that piece of information after that date, isn't that correct, after the 3rd March 1988?

A. As far as I know, it had to be Des Traynor.

Q. Had to be Des Traynor?

A. Yeah.

Q. Had absolutely?

A. Yeah.

Q. How did you make contact with Mr. Traynor to obtain that piece of information?

A. I phoned him as far as I can remember.

Q. Where?

A. Fitzwilliam Square. He had I don't know, he had given me the number, how he had given it to me I can't say but I certainly had it sometime later.

Q. Well can we say that after the 3rd March 1988, you had a telephone conversation with Mr. Traynor

A. Sorry, can I get my facts right I knew in 1990.

Q. I know that, Mr. Foley. What I am saying is this, that you got a piece of information that Martin Keane was now left, see Pdraig Collery.

A. That's right, that's right.

Q. That had to be after the 3rd March 1988, because Mr. Keane only - the only piece of information you got from Mr. Keane was the balance on the account?

A. That's right.

Q. Somebody had to give you that piece of information and you say that Mr. Traynor was the only one that could have given you that piece of information, is that right?

A. Mr. Traynor, yes, had to be the only man.

Q. And to receive that piece of information from Mr. Traynor, you had to have some contact with Mr. Traynor after the 3rd March 1988?

A. That is correct. However, I can't recollect how I got his number, his telephone number, whether I got a letter from him or not. I know I did have a letter much later.

Q. I am not talking I am looking at this period now.

A. That's right.

Q. You have told us that as of March 1988, you were unaware that Mr. Traynor had left the bank?

A. At that stage no, because when I phoned up I was looking for Mr. Traynor.

Q. You were unaware that he had left the bank so you had to make contact with Mr. Traynor, is that correct?

A. That is correct, yes.

Q. And you believe that you contacted him by telephone, is that correct?

A. That's the only way I could contact him.

Q. Is that correct?

A. How I got his telephone number, I just can't recollect.

Q. I'll come to that now, Mr. Foley.

A. Yeah, that's the only way.

Q. The only way you could have contacted him was by telephone?

A. That's right.

Q. And how could you have obtained and can I take it it was to an office you rang, is that correct?

A. Pardon?

Q. You rang him at an office?

A. Yeah, that's right.

Q. And his secretary answered the phone?

A. As far as I know, what I can't recollect now is how I got his number.

Q. That's what I want to come to in a moment.

A. Yeah.

Q. It was clear we will come to about how you might have got the number in a moment but it was clear to you when you were contacting Mr. Traynor on this occasion that he was no longer at Guinness & Mahon, isn't that correct?

A. After that phone call to Guinness & Mahon, I got the impression when I phoned first that he was not there, you know, I got no more information and then I asked to speak to Martin Keane.

Q. Yeah. Well I think you have told me now, Mr. Foley, that nobody in Guinness & Mahon informed you that Mr. Traynor had left the bank?

A. No, he was not there.

Q. He was busy.

A. That's right.

Q. What I want to know is this, after you received the balance on the 3rd March 1988, you must have found out that Mr. Traynor was no longer at the bank if you rang him at an office which wasn't Guinness & Mahon, is that right?

A. That is true, yeah.

Q. How did you find that out?

A. I just can't say, Mr. Coughlan. I can't say. What strikes me is I may have rang Guinness & Mahon again but I have no record of that.

Q. Or recollection?

A. Or recollection, no.

Q. But you had to find out that he was not at Guinness & Mahon, isn't that correct?

A. That's right, yeah.

Q. And you also had to find out where he was?

A. That's right, that's correct.

Q. And you also had to obtain a telephone number to make contact with him?

A. That's correct, yeah.

Q. Somebody had to give you those three pieces of information?

A. That's correct.

Q. Now, Mr. Foley, who gave you those three pieces of information?

A. I may be wrong, Mr. Coughlan, but all I can assume is that Des Traynor contacted me.

Q. All right.

A. I am only assuming that now, I still I am only assuming that, I am not sure.

Q. Let's inquire into that so, Mr. Foley.

A. Yeah, right.

Q. If Mr. Traynor had contacted you, was it by telephone?

A. By telephone, yeah.

Q. And where would that have been to?

A. He could have phoned me at Tralee, in my home address.

Q. Do you ever remember Mr. Traynor do you ever remember Mr. Traynor ringing you at Tralee?

A. No, I don't, I might as well be honest. I just don't remember him ringing.

Q. And during this period, can I take it that you would have been in Dublin during the week?

A. Tuesday, Wednesday and Thursday, yeah.

Q. Tuesday, Wednesday and Thursday. So can we take it that it's unlikely that Mr. Traynor rang you at Tralee, it's unlikely?

A. Possibly is, Mr. Coughlan. I just can't I have a blank period at that stage.

Q. It's unlikely, isn't it?

A. Yeah.

Q. It's unlikely, isn't that so?

A. That's the only way I could get the information, like, you know, I thought first that I had got a letter but I hadn't it on file. I thought I got a letter from him. I found that he had offices in 42 Fitzwilliam Square, I thought I had it but I don't have it on the file, giving me a telephone number. It was just a blank period.

Q. Well did you receive such a letter from Mr. Traynor?

A. Again, like the phone call, I thought I received a letter informing me that he had moved to 42 Fitzwilliam Square and certainly on that letter, he did say to leave messages to his secretary if he wasn't there.

Q. We know Mr. Collery wrote you a letter from 42 Fitzwilliam Square?

A. That was in 1990.

Q. In 1990, yes. Do you think that Mr. Traynor wrote you a letter from 42 Fitzwilliam Square?

A. One thing is certain, Mr. Coughlan, is the only way I could get information is either he phoned me or wrote to me and that I had a recollection.

Q. Or you would have phoned him?

A. But I wouldn't have his number unless I got it first.

Q. Unless you got it from somebody else?

A. Yeah.

Q. Could you have got it from somebody else?

A. No, I would not.

Q. It was impossible to get it from somebody else, is that what you are saying?

A. I am saying it wasn't impossible but nobody outside of the people concerned in '79 knew my connection with Des Traynor and there would be no reason for anybody to give me his number.

Q. Anybody outside 79?

A. 1979.

Q. 1979, I beg your pardon. But from the contact that you had, whether it was you ringing him, him ringing you or a letter being received or I am taking all of those

A. Right.

Q. matters into account, you undoubtedly obtained the information from Mr. Traynor that Martin Keane was now left Guinness & Mahon and that you should see Pdraig Collery?

A. That is correct, Sir.

Q. And you could only have got that from Mr. Traynor?

A. Only from Mr. Traynor.

Q. And can we take it that that was in the context that it was only Mr. Collery you were to seek out if you were looking for information?

A. That is correct.

Q. And nobody else?

A. Nobody else, no.

Q. In the bank?

A. In the bank.

Q. Now I am not discounting at all that you may have received a letter, Mr. Foley, because in evidence in the Tribunal, we have seen an example on one occasion of a letter being written by Mr. Traynor informing somebody that he had left the bank and that they should contact him at the address of 42 Fitzwilliam Square. That evidence was evidence which was given in the course of the evidence of a Mr. Doyle with the Tribunal, but it's clear that the information, if you did receive a letter, it would have informed you that he had left the bank, is that right?

A. That's correct, yeah.

Q. And that you may have contacted him then in Fitzwilliam Square if you did receive such a letter?

A. That's right.

Q. And he would have told you the only person you were to make contact with was Mr. Collery at the bank.

A. What he did say, if I so wished I could contact him any

time I had a problem.

Q. He himself?

A. Yes, and deal with Mr. Traynor himself.

Q. Absolutely. And that he was the one who was still looking after your investment, as you considered it, and your affairs?

A. That's the impression he left me.

Q. And you accepted that?

A. I accepted that.

Q. And you were happy with that?

A. I was happy with that.

Q. So you, as of that time, now knew that it was Mr. Traynor who was looking after your account and that it wasn't anything with Guinness & Mahon on its own?

A. That is correct.

Q. And that whilst business may have been transacted through Guinness & Mahon, you had to be very careful that the only person you should contact was Mr. Pdraig Collery?

A. That's correct.

Q. Now, I think you have informed the Tribunal that you made a withdrawal of €20,000 on the 13th April 1989, is that correct?

A. '89, yes, that's right.

Q. And to make that withdrawal, can we take it that you made contact with Mr. Traynor?

A. I phoned Mr. Traynor, yes.

Q. And what did you say to him, that you wanted to get

€20,000?

A. That I wanted to get €20,000 and he said okay, I phoned him sometime before that and I asked what I would do. He said,

"Rather than give it to you in cash, I'll give a draft"

and he said," Will it be convenient for you to go to the

Guinness & Mahon, South Mall, Cork and cash it?" And I said

that would be convenient and I said,"Would that be okay?

How will they know me?" So he says, "I will make

arrangements and you have your driving licence with you."

Q. Mmmm. Now, just to be clear about this, Mr. Foley, when you contacted Mr. Traynor, it was Mr. Traynor you expected to get the money for you?

A. Yeah, that's right, he said he would get it, yeah.

Q. You never believed that you should go to Guinness & Mahon in relation to it?

A. No, I did not, no.

Q. Who had left the bank and you knew that?

A. I knew that.

Q. And you told him that you wanted €20,000 and he said okay, or words to that effect.

A. Yeah.

Q. And was it on that occasion that he had the discussion as to whether it would be convenient for you to go to the branch at South Mall in Cork or did he come back to you and say that to you?

A. He phoned me I phoned him again sometime before that to know what the position was, you know.

Q. What time scale are we talking about?

A. Two days or so, three days, I phoned him again to see could I arrange to call, even though I was under pressure and he said, "I can arrange to get a draft for you but it would mean you would have to go to Cork to have it cashed" but I didn't mind that at that time.

Q. Yes. But when you wanted €20,000, your understanding in the first instance was that it would be in cash, is that correct?

A. I thought it would be in cash.

Q. You thought it would be in cash. For whatever reason anyway, he asked you would a draft be all right and you could cash it in Cork?

A. Correct.

Q. And where did you get the draft?

A. The draft was posted out to me.

Q. It was posted out to you?

A. Yeah.

Q. From 42 Fitzwilliam Square?

A. I take it it was 42 Fitzwilliam Square, it was a draft, there was nothing with it.

Q. There was nothing with it?

A. No.

Q. No covering letter?

A. No covering letter, no.

Q. So no doubt a minimum of documentation, an envelope and a draft?

A. That's correct, Sir.

Q. And was the draft made out to cash?

A. No, it was made out to Denis Foley.

Q. And you can remember that?

A. I do, yeah, I remember that because I had to sign the back of the draft.

Q. You had to sign the back of it. And this was in 1989, on the 13th April 1989?

A. 13th April, around that time anyway, Mr. Coughlan.

Q. Yes well, sometime in April, the middle of April or thereabouts?

A. I think that was the date on the draft.

Q. The date on the draft?

A. Yeah.

Q. When did you cash it?

A. Within a week.

Q. At Guinness & Mahon in South Mall in Cork?

A. In Cork.

Q. And you had to sign the back of it?

A. I had to sign the back of it, yeah.

Q. And was the draft drawn was it a Guinness & Mahon draft?

A. I have no doubt it was a Guinness & Mahon draft.

Q. Well are you sure about that now, Mr. Foley?

A. I do think it was.

Q. You do think it was?

A. Yeah, I am pretty certain that it was.

Q. Are you sure about that because inquiries continue but

A. I accept that.

Q. But as of the moment and I am not saying you are incorrect
but as of the moment

A. I accept that.

Q. there doesn't appear to be a record in respect of such a
draft drawn around that time in Guinness & Mahon.

A. That has been brought to my notice, I do accept it but I
was under the impression when I got it that it was a
Guinness & Mahon draft.

Q. So what we should be looking for so is a Guinness & Mahon
draft for €20,000 made payable to you, is that correct?

A. That's correct.

Q. And endorsed by you on the back?

A. Endorsed by me on the back.

Q. And definitely a Guinness & Mahon draft?

A. Well, I am almost a hundred percent certain. I took it for
granted when I got it, it was a Guinness & Mahon draft.

Q. When you say you took it for granted, but you never went to
Guinness & Mahon looking for €20,000, you went to Des
Traynor?

A. Yeah.

Q. Can we take it sorry, Mr. Traynor had a conversation
with you and said, "Would a draft be acceptable?" is that
correct?

A. Yeah, he said that and to know if I would go to Cork.

Q. And you were happy about that?

A. I was concerned whether I would be able to cash it and he

said there was no problem, he would make arrangements and to bring my driving licence.

Q. Why should you have concerns about where you might cash it?

A. Because I wouldn't be known. It was a lot of money.

Q. I know that but, Mr. Foley, you had experience of drafts over a long period of time.

A. I had, yeah, that's right. Well I didn't have a great concern, I went within the week.

Q. Well if you had a draft made payable to Denis Foley

A. Yeah.

Q. there was no reason why you couldn't have walked into your local Bank of Ireland or Allied Irish Bank or whatever bank would be in Tralee and cash it, isn't that right?

A. That is correct but he did say to me that he would prefer if I went to Guinness & Mahon in Cork.

Q. He said that he would prefer if you went to Guinness & Mahon in Cork?

A. I had no problem doing that.

Q. The whole transaction, would you agree, has the appearance of one whereby it would avoid scrutiny by somebody?

A. Would you repeat that again, Mr. Coughlan?

Q. Yes. The whole transaction you could easily, if you received a draft, have gone into your local bank, isn't that right?

A. That is true, yes.

Q. And you could have cashed it. You had a draft.

A. That's right.

Q. There was no difficulty about that.

A. Yeah, but when he asked me to go to the Guinness & Mahon in Cork, I had no problem in doing that.

Q. I know. Had you ever travelled to Cork previously to cash a draft?

A. No, not to cash a draft but I was going to Cork pretty regular at that time, weekends, for basketball.

Q. Yeah. Well, the bank wouldn't have been opened on the weekend at this time?

A. No, no.

Q. Would you not agree with me, Mr. Foley, that asking you to go to Cork to a branch of Guinness & Mahon

A. That's right.

Q. must have been designed so that the trail would not have been obvious to anyone else where the money had come from or who was receiving the money?

A. Yeah.

Q. Would you agree?

A. That may be so, Mr. Coughlan, yeah.

Q. And in all your experience of banking, and I suggest to you that this wasn't an ordinary type of banking transaction for you. It was extraordinary you travelled to Cork to cash a draft, isn't that correct?

A. That's correct.

Q. And of course coming at the transaction from your point of view, your requirement was for cash, isn't that correct?

A. That's correct.

Q. It wasn't for the purpose of lodgment to another bank account to allow drawings to be made?

A. No, Sir, no.

Q. So you also, I might suggest to you, required that the transaction would be clouded with some secrecy.

A. That's correct.

Q. Now, you were in Dublin Tuesdays, Wednesdays and Thursdays of the week?

A. That's right, yeah.

Q. At that time. Can you say what day of the week the draft would have arrived by post?

A. It was at home, it was at home before me when I got back on the Thursday night.

Q. I see. Now I take it that Mr. Traynor knew that you were a Member of the Oireachtas?

A. He did, yes.

Q. And he must have been aware that you were in Dublin on your constituents' business during the week?

A. That's correct.

Q. And there would have been absolutely no difficulty for you to, even from the point of view of clouding the particular transaction with secrecy, going to Guinness & Mahon in Dublin to cash the draft, isn't that correct?

A. That is correct, Sir.

Q. In fact it would have been far easier to do that. It put you completely out of your way having to go to Cork to do it?

A. Well at that particular time, while I was in Dublin I was under a whip and I wasn't in a position to get out at that particular period.

Q. At lunch time?

A. I could go at lunch time yeah but I was tied up in committees, you know, and lunch time would be, I would have to call between 3 and 4, that was the time.

Q. That's to collect the draft?

A. He gave me the option and he also said will he post it out? And I said, "Post it out."

Q. I see. I can understand that if he said that between 3 and 4 in the afternoon would be the time to call to him to collect the draft and you might be under the whip at that stage and you couldn't leave the precinct or had to be available at least.

A. Yeah.

Q. I suppose it wouldn't take long to stroll up from Dail Eireann to 42 Fitzwilliam Square?

A. Not really, no.

Q. And seeing as you were so busy around this time and the whips were keeping a tight control

A. That's correct.

Q. Didn't it make the task of cashing the draft much more difficult by having to go to Cork to do it?

A. It did not, I was going to Cork for a number of pretty often around that period, I can't say how often, on a Friday.

Q. It would have taken, I suppose, no longer than about five minutes to have walked from Leinster House down to Guinness & Mahon in Dame Street?

A. That is correct.

Q. Would you agree?

A. That is correct.

Q. Another five minutes back, that would be about ten minutes and whatever time it took to transact the business.

A. That is correct.

Q. It could easily have been done, isn't that correct

A. Quite easily, yes.

Q. Far easier than going to Cork to do it?

A. I was on the subcommittee of Kerry County Council at that time and I was going to Cork for regular meetings on a Friday.

Q. What I am saying, it would have been far easier to do it in Dublin than it would have been in Cork?

A. Yes, it would be far easier.

Q. And are you sure that the draft was a draft drawn on Guinness & Mahon or could it have been drawn on another bank?

A. As far as I can remember, it was drawn on Guinness & Mahon.

Q. Now, I think by arrangement with Mr. Traynor, you made another withdrawal on the 16th June, 1993?

A. That is correct.

Q. And that was €10,000?

A. 10,000 cash.

Q. Cash. Again, did you contact Mr. Traynor about that?

A. I contacted Mr. Traynor about a week beforehand.

Q. In 42 Fitzwilliam Square?

A. 42 Fitzwilliam Square.

Q. You told him you wanted cash?

A. Yeah, I wanted cash. I certainly didn't want a draft anyway, I told him I wanted cash.

Q. Why didn't you want a draft?

A. Because I wasn't going to Cork at that time. I wasn't travelling to Cork. If he wanted to

Q. But, Mr. Foley, what's Cork got to do with it? Is Cork unique in terms of drafts?

A. No, it's not. In '89 in '89, it was a draft he had issued. I told him I would prefer cash. He said there was no problem.

Q. You certainly didn't want a draft, you wanted cash.

A. I wanted cash, yeah.

Q. Is that because you considered the trip you made to Cork to have been a burden on you on the previous occasion?

A. Not really.

Q. Isn't it because to receive cash, it was safer, that there would be no trail at all?

A. That is correct, I would accept that.

Q. And that was your purpose, isn't it?

A. That's right, that's correct.

Q. And his purpose?

A. Yeah.

Q. And you knew that it was from Des Traynor you were getting the £10,000 cash, isn't that correct?

A. I knew I was getting £10,000 in cash from Des Traynor.

Q. And where was the cash given to you?

A. In 42 Fitzwilliam Square and I went back a week after.

Q. You went back a week later?

A. A week later.

Q. And how was it given to you?

A. In cash.

Q. By whom?

A. Mr. Traynor.

Q. In his office?

A. In his office, yeah.

Q. And on these two occasions, did you ever have any discussion with Mr. Traynor about the state of your account?

A. I don't believe I had.

Q. You never looked for the up-to-date position as to how your investment stood?

A. No, no. I may have mentioned it and he told me rates were good, as far as I can remember, and I didn't get the actual figure because he would have to get them. He didn't have them there.

Q. You say that rates were good. I take it you knew it was an interest rate you were getting.

A. An interest rate, yeah. I wasn't concerned about my balance at that time to be honest with you.

Q. So you knew that it was rates that it related to, that it was money which was in a bank account, isn't that correct?

A. That it was in an investment account.

Q. In a bank account - rates. Rates, isn't that right?

A. Yeah.

Q. You knew that.

A. Yeah.

Q. And you knew that it was offshore?

A. At that time I did, yeah.

Q. You knew it from way back that it was offshore?

A. That's right, yeah. When I got the slip in sterling.

Q. It was in sterling. And you knew it was Mr. Traynor was looking after it, didn't you?

A. I did, yes.

Q. And by this point, this is I am talking about now 1989, you knew that Mr. Pdraig Collery had something to do with it as well, isn't that correct?

A. Well I had got a note prior to that saying that Martin Keane had left, now see Pdraig Collery but I had never contact contacted him. Sometime in 1989 I got a letter from Pdraig Collery saying he was leaving Guinness & Mahon and moving to 42 Fitzwilliam Square.

Q. Where Mr. Traynor was.

A. Where Mr. Traynor was.

Q. So Guinness & Mahon, you knew, had nothing to do with it?

A. That's right.

Q. You knew that?

A. That is correct.

Q. Now, I think you told us yesterday that you had a meeting with Mr. Traynor in 42 Fitzwilliam Square around 1991?

A. Around 1991, at some stage in 1991.

Q. And you certainly had contact and had visited him at Fitzwilliam Square on other occasions other than that. You did obviously to collect the €10,000 in cash and you did to make inquiries about getting the €20,000?

A. That's correct.

Q. At least

A. At least two times.

Q. At least. And you met him around 1991, is that correct?

A. That's correct.

Q. Now, what was the purpose of the meeting?

A. The purpose of the meeting was to try and close the account. That was the main purpose. He told him, he made reference then that it was on a ten year cycle and

Q. That what was on a ten year cycle?

A. The investment was on a ten year cycle and that it had gone into a second cycle of ten years.

Q. Yes. Go on.

A. And he said I'd lose the lot if I wanted to close the account at that stage.

Q. So what he was indicating to you was when the money went in in 1979, it had to stay invested for ten years, otherwise you'd lose money if you tried to cash it in before that?

A. That's right. He had never said that to me before.

Q. You are saying in 1991, you are saying that he told you that it was on a ten year cycle?

A. That's correct.

Q. Well did you not say to him, "Fiddlesticks, Mr. Traynor. Didn't I just take £20,000 out in 1989?" Did you say that?

A. What I did say, "How was I taking money out?" As far as I can remember, he said, "That doesn't affect it to be honest with you," he said. He was very convincing.

Q. And you took another £10,000 in cash out two years after this?

A. In 1993, yeah.

Q. And did you have a discussion about that?

A. No, just phoned him up.

Q. You just phoned him on these two occasions and said "I want £20,000." On another occasion and said, "I want £10,000" and there was no question of the period of investment or what the money was invested in, you just wanted the cash

A. That is correct, yes.

Q. Was there any discussion about any amnesties around that time between you and Mr. Traynor?

A. None, none whatsoever.

Q. Or in 1993?

A. No, Sir.

Q. Isn't it clear, Mr. Foley, that such a suggestion, if it was made by Mr. Traynor, was absolute nonsense in light of the fact that you had been able to get £20,000 out in 1989?

A. That's correct, Sir, and I pointed that out to him that I

had got money out previously from him and he said, "Look, I am telling you it's a good investment and you can get money when you need it."

Q. Of course, and sorry, he said, "Now it's a good investment and you can get money when you need it"?

A. "When you need it."

Q. Well let's pause there for a moment so, Mr. Foley, and examine that. You were an experienced businessman, is that correct?

A. Well I'd say I would be, yes.

Q. You, in the first instance, said that Mr. Traynor told you when you wanted to close down the account in 1991 that it had been on a ten year cycle.

A. That's correct.

Q. And you said, "How can that have been so? I got £20,000."

A. I said that to him. I said that.

Q. And the response to that was that didn't affect it.

A. That's correct, Sir.

Q. He had also told you that interest rates were good.

A. That's right.

Q. Those were bank interest rates.

A. That's right.

Q. He then you raised the issue with him as to how you could have got the money out if it was on a ten year cycle and he told you you could get money out whenever you wanted notwithstanding that the investment was on a ten year cycle.

A. That's right.

Q. Well you got €10,000. What if you wanted to take it all out? Did you discuss that with him?

A. Sorry?

Q. You wanted to close it down, you wanted to take all the money, is that right?

A. That's correct.

Q. And he told you it was going to be on a ten year cycle.

A. That's correct.

Q. But that there would be no difficulty in getting money, is that what you were told?

A. Well, it was my intention to continue on that vein.

Q. On what vein?

A. To try and draw out the money, even though it was, he said a ten year cycle because he said to me there would be no problem getting money out.

Q. Didn't that occur to you as an experienced businessman as being absolute nonsense, Mr. Foley?

A. That is true, Mr. Coughlan. I trusted Mr. Traynor. I trusted him.

Q. I wonder, Sir, this is serious business and I think outbreaks of laughter from the audience are not assisting myself or Mr. Foley.

CHAIRMAN: I did have a hesitation in intervening, I am anxious not to interrupt the flow but I would ask people who are present to bear in mind this is a very serious public inquiry into deeply serious matters. If people want

to come for entertainment, they should find somewhere else. Now please let us have no interruptions.

Q. MR. COUGHLAN: You trusted Mr. Traynor?

A. I did certainly, Mr. Coughlan.

Q. And you knew that Mr. Traynor had control of your money?

A. I did, yes, Mr. Coughlan.

Q. And nobody else, as far as you were concerned?

A. No.

Q. Not Guinness & Mahon?

A. Not Guinness & Mahon.

Q. Now, around this time, a resident deposit account of yours, an ordinary up front deposit account of yours in Guinness & Mahon was brought to a zero balance, isn't that correct, around this time of 1991?

A. That is correct 1990.

Q. 1990. Now, I think you informed the Tribunal about how you opened the account back in the

A. '86.

Q. '86 or thereabouts and there was various lodgments to the account and they were all showing in the statements and on the accounts in Guinness & Mahon, isn't that correct?

A. That's correct.

Q. And that in 1998, subsequent to your ill health, you had obviously contacted Mr. Pat O'Dwyer of Guinness & Mahon and informed him

A. '88.

Q. '88, I beg your pardon, and informed him that you wished it to be in the joint names of yourself and your daughter because of your ill health.

A. That's correct.

Q. And subsequent to that telephone conversation, you gave the instructions in writing as requested.

A. That's correct.

Q. A normal type of banking transaction as you would understand it.

A. That's correct.

Q. And I take it that up to that time you would have been receiving statements about that particular account?

A. That is correct.

Q. And in the normal course of the money being deposited, interest would have accrued over a period of time in the normal course of banking business.

A. That's right.

Q. There then came a time in the life of that account when the statements started to go to Mr. Pdraig Collery whilst he was still in Guinness & Mahon, is that right?

A. I didn't know that. That information was brought to my notice at the Tribunal.

Q. Can I take it, and you have been extremely good at furnishing documents, even documents you uncover even in the most misfiled situation you bring them to the attention of the Tribunal, but you had been receiving statements on this account at your home in Kerry from Guinness & Mahon?

A. That is correct.

Q. And that must have stopped?

A. At that stage when it stopped, the account was closed. I got statements up to the last that was '86, '87, '88, I got statements up to them lodgments.

Q. Yes, I know about the lodgments but you would have continued to receive statements or should have continued to receive statements on a regular basis showing the interest as it applied to the deposit, is that correct?

A. That's correct.

Q. And did you receive those?

A. No, not to my knowledge, I did not.

Q. Well, we know I think you were here during Mr. Collery's evidence?

A. Correct.

Q. that the statements on that account were received by him while he was working in Guinness & Mahon, you know that that is actually what happened, isn't that right?

A. Yes, it was brought to my notice by the Tribunal.

Q. Mr. Collery has explained that this type of facility is afforded to customers but the statements must be received by a senior person in the bank. You have heard that evidence?

A. I heard the evidence, yes.

Q. And that when he received the statements, not just your statement but he received them for a number of customers in the bank, that he would know either where to send them or

the customer may wish to collect them personally or somebody instructed on behalf of the customer. Now, up to the time that the account was closed, did you continue to receive statements?

A. No. The statements after each lodgment, there was three lodgments, '86, '87 and '88 and when the account was closed, I didn't get the final statement until sometime after the account being closed.

Q. Well did you know that statements were being generated in respect of the account and that they were being received by Mr. Padraig Collery?

A. I did not, Mr. Coughlan. As I say, I got statements up to '88 and the account was closed in 1990.

Q. Mmmm. Did you know if it be the case, as Mr. Collery has said, he must have given the statements to Mr. Traynor?

A. Unless he gave them to him after 1990 because the account, Des Traynor phoned me up in 1990 about the account and he said, "It's no use in Guinness & Mahon, I can put it into their account for you."

Q. Right. I'll come to that.

A. Sorry about that.

Q. I am just you didn't know that Mr. Collery was receiving your bank statements.

A. No, Sir.

Q. You gave no instructions

A. I gave no instructions.

Q. to Mr. Collery or Guinness & Mahon

A. No.

Q. that that should have occurred or anyone in Guinness & Mahon?

A. No, Sir.

Q. And did you give any instruction to anyone acting on your behalf, such as Mr. Traynor?

A. No, Sir.

Q. Or a solicitor or anybody like that?

A. No.

Q. No. Did you give that instruction to the bank?

A. No, sir, no instructions were given.

Q. So if this particular procedure was being carried out, it was being carried out without your knowledge and without your permission?

A. That is correct, Sir.

Q. Now I think at the time that you did receive statements after you made lodgments, I am just I'll just put one up as an example if I may you furnished these to the Tribunal, Mr. Foley, there's no doubt about that.

A. I did, yeah.

Q. There can be little doubt but when you received something from Guinness & Mahon sorry, could we put it back for the moment please. When you received statements from Guinness & Mahon, that's the form they took

A. That's the form.

Q. There's a Guinness & Mahon letterhead, there was the account number (Document handed to witness) isn't

that correct, and an account name and the particulars

relating to the transaction?

A. That's correct.

Q. Showing various credits and debits and the balance as you'd expect?

A. That is correct.

Q. And in fact when you lodged, you also received a receipt with your, with D Foley, the account number, the amount of the lodgment.

A. That is correct.

Q. And that was, as you would expect, in the normal course of ordinary banking?

A. Correct, yes.

Q. Now you received a letter, I think, from Mr. Collery in 1990, is that correct?

A. That's right, March 1990, as far as I can remember.

Q. March 1990. And just it was you furnished the Tribunal with a copy, isn't that correct?

A. Yes.

Q. And if we just show the letterhead on it please, I think it's 42 Fitzwilliam Square, Dublin 2, is that right?

A. Correct.

Q. And I think you knew that Mr. Traynor conducted his business insofar as it affected you, that's looking after your money, from that address.

A. That's right. Could I say, Sir, the telephone number was included there.

Q. Yes, I know that, I think I have explained that over and over again. The Tribunal has taken that particular number out but it was undoubtedly a number at which Mr. Collery could be contacted, there's no doubt about that. It's for the protection of some other entity and I think it's addressed to you and it's been given to you.

"Dear Denis,

I am writing to advise you I no longer work at Guinness & Mahon. My new telephone number is" - blank that was the number Mr. Collery could be contacted at "or you can leave a message with Joan Williams, Mr. Des Traynor's secretary at the above number and she will contact me.

I would be grateful if you would give me a call in the next week or so to arrange a meeting as there are one or two things I would like to discuss with you.

Yours sincerely,

D.P. Collery."

You received that letter.

A. I received that letter.

Q. What occurred to you when you received the letter? What did you think?

A. That Mr. Collery was going into the office with Mr. Des Traynor.

Q. Yes. And he is indicating to you where he could be contacted or that you can contact Joan Williams

A. That's right.

Q. at Mr. Traynor's office?

A. That's correct.

Q. Just to be clear, the number that is blocked out by the Tribunal there is not the 42 Fitzwilliam Square.

A. That's right.

Q. It's another number where Mr. Collery could be contacted.

A. It is, yeah.

Q. And I think he is saying that he was asking you to give him a call?

A. That's correct.

Q. To arrange a meeting as there were a couple of things he wanted to discuss with you.

A. That's correct.

Q. And what did you when you received that letter?

A. I certainly didn't make any arrangements to meet him anyway, Mr. Coughlan, because I was happy to be dealing with Mr. Traynor.

Q. I see. Did you wonder why you received this letter?

A. I was surprised and I produced the letter to the Tribunal.

Q. Oh I know you produced the letter to the Tribunal but back in 1990, did you wonder why you received a letter from Mr. Collery?

A. I did, I was surprised.

Q. Well did you make any contact with Mr. Traynor when you received this letter?

A. No, I made no contact with him.

Q. Are you sure about that?

A. Positive, yeah, that was 1990 now.

Q. Well I think you were furnished, there was a series of correspondence sorry, in the next series I think, I think Mr. Humphries of Guinness & Mahon. This is a letter of the 16th July 1990 addressed to Mr. Collery at his home and it's from Mr. Humphries of Guinness & Mahon who had taken over Mr. Collery's duties in Guinness & Mahon.

"Dear Pdraig,

I know that back in January you advised me you had written to D and M Foley concerning mandates etc.. Please advise present status.

Yours sincerely,

David Humphries

Senior Manager - Operations

Guinness & Mahon."

Had you had any discussions with Mr. Collery about this ? This refers to the deposit account which had been put into

A. No discussion whatsoever. The only discussion I had was with Mr. Traynor.

Q. And was this around that time?

A. It was in 1990, that's all I can say.

Q. You had a discussion with Mr. Traynor?

A. Mr. Traynor actually phoned me about the account, I have said this, and he would, he said it was a waste of time having it there, could he enter into the investment account, and I agreed.

Q. And the next thing we see is Mr. Collery is closing the account and getting the balances. He writes a letter to Guinness & Mahon. It will come up in a moment but I think it's been drawn to your attention and you have seen it in the course of evidence, Mr. Collery is acknowledging receipt of the balance on the account which is a cheque which comes for 24 odd thousand pounds and a few pence, is that correct?

A. That's correct.

Q. And you had given instructions to Mr. Traynor to do that, is that correct?

A. I had, yes.

Q. And I take it that "Thank for the draft," it's for £24,005 and you knew when you gave those instructions that the monies were going into an offshore account?

A. I did, yes, Sir.

Q. That is under the control of Mr. Traynor.

A. That's correct.

Q. And not under the control of Guinness & Mahon.

A. That's correct.

Q. After this instruction was given or at the time the instruction was given, did Mr. Traynor tell you what he was going to do with it?

A. Putting it straight into the investment.

Q. Straight in. And you were leaving it up to him, is that correct?

A. I was, yes.

Q. Now, I think you were aware from the evidence which has been given to this Tribunal and from documents which were brought to your attention by the Tribunal that in fact the proceeds of this particular draft in respect of the balance on your account or your joint account was lodged to an Amiens SL Account, isn't that correct? I think you are aware of that now.

A. That's been brought to my notice, yes.

Q. And I think it has also been brought to your notice how a switch took place, that is that somebody who was a client of Mr. Traynor's in his offshore operation would have needed Irish money and either one person or a number of people and that your money would have been used for that purpose to give to them and an account A/A49 was opened on the bureau system for you and there would have been a debit of their offshore deposit money into your account creating the balance. In other words, a switch was taking place, isn't that correct?

A. That was brought to my notice by the Tribunal.

Q. Because you knew, isn't that correct, that your money in Guinness & Mahon was in Irish pounds?

A. Correct.

Q. And you knew that the money going into the monies which were under the control of Mr. Traynor had to be in a foreign currency, had to be in sterling, isn't that correct?

A. That's correct.

Q. And can I take it you didn't raise with Mr. Traynor and he didn't raise with you any questions concerning the requirement of exchange control for such a transaction?

A. No, Sir.

Q. Or any earlier transaction?

A. No, Sir.

Q. Now, I think Mr. Traynor died in May of 1994?

A. '94, that's right.

Q. You can take that I am going to be moving on to this, a new area now, Sir, and just in light of what you said this morning, Mr. Foley has been in the witness-box for a fairly lengthy period.

CHAIRMAN: Would you prefer to break now or perhaps take another ten minutes?

A. I would prefer to continue, thanks very much.

Q. MR. COUGHLAN: Very good. Now, up to the time of Mr. Traynor's death, had you dealt with anybody other than Mr. Traynor, and I mean apart now from obtaining information, had you dealt with anybody other than Mr. Traynor for the purpose of taking money out or putting money in?

A. No, Mr. Traynor the whole time.

Q. You had perhaps obtained information from Mr. Keane or somebody in Guinness & Mahon but that's all?

A. That's on record, yes.

Q. Now, when Mr. Traynor died, I take it you would have had a certain concern about the monies he held under his control?

A. Yes, I was very concerned actually. Very concerned.

Q. And what did you do about it?

A. I tried to make contact with Mr. Collery.

Q. Why Mr. Collery?

A. Because the point is he was in Mr. Traynor's office.

Q. And how did you know that?

A. I had got a letter previous which you had on the screen.

Q. The 1990 letter?

A. Pardon?

Q. Because of the 1990 letter?

A. The '90 letter, yeah.

Q. Did you ring Mr. Traynor's office?

A. I rang Mr. Traynor's office.

Q. When he died?

A. Yeah.

Q. And you spoke to who?

A. I spoke to a lady.

Q. His secretary?

A. I take it it was.

Q. Well had you spoken to the same person on previous occasions?

A. I had, yes.

Q. And had you met that person when you went to get the cash from Mr. Traynor?

A. I did. She opened the door actually.

Q. Did you go to Mr. Traynor's funeral?

A. I did not.

Q. But because of the letter and the telephone contact you made with somebody in Mr. Traynor's office after his death

A. Yeah.

Q. were you given a number for Mr. Collery?

A. I was given the number for Mr. Collery, yeah, and

Q. Was that the same number as the number that we have taken out of

A. I am not sure of that, no, but it was a number that I didn't get through, it was ringing out but I eventually, it was sometime after I was actually

Q. Yes.

A. I really didn't know what to do to be honest. And I eventually made contact and that was 1994, in 1994 I made contact with Padraig Collery and in the meantime, I was making efforts to try and get my affairs in order and I eventually made contact with Mr. Collery and I told him I wanted to draw œ50,000 out of the account.

Q. Yes. And what did he say to you?

A. "It was Mr. John Furze dealing with the account."

Q. Sorry, first of all, I think did you say that you were looking for a large sum?

A. I said that at the outset I was looking for a large amount and he said it was Mr. John Furze dealing with

Q. I just want to take this slowly now, he told you in 1995 that your money or your investment was being dealt with by Mr. John Furze. You are clear about that?

A. I am positive, yeah. And I told him I had never heard of Mr. John Furze. That I had a letter from him in 1990, where he was going into Mr. Traynor's office.

Q. You told him you had never heard of nor met John Furze?

A. Never heard or met or dealt with a Mr. John Furze.

Q. But you remember the name clearly?

A. I remember the name, no doubt about it.

Q. As a result of that conversation, did Mr. Collery say he would get you the money?

A. He did, yes.

Q. Did he ring you back to say that it was ready?

A. No, I rang him. I rang him sorry, I rang him before that. Then he rang me back to say he would meet me, I think it was on the 8th September.

Q. Of 1995?

A. Yeah, and he suggested Jurys Hotel in Ballsbridge so I asked him at that stage for a description of himself, you know, and he gave me a full description of himself and I told him I would be sitting in the main foyer of Jurys Hotel which I was, so when he came in I recognised him from the description and we moved into the bar.

Q. Can I take it that when you contacted Mr. Collery to get €50,000 or whatever sum of money

A. Yeah.

Q. you just told him that you were Denis Foley?

A. I did, yeah.

Q. That's all?

A. That's right.

Q. And that you wanted œ50,000?

A. That's right.

Q. And can I take it that Mr. Collery didn't express any surprise that you had that sort of money?

A. No.

Q. And he didn't ask you for any form of legal proof or identification or anything like that?

A. No, no.

Q. To such an extent that he subsequently arranged a meeting for the handing over of the money to you and what he did was he gave a description of himself, isn't that correct, so that you could identify him?

A. Yeah, he asked me to come up to him when he'd come in.

Q. And unlike even the precaution which had to be taken in going to Guinness & Mahon

A. Correct.

Q. in South Mall, you didn't have to bring a driver's licence?

A. I had it just in case.

Q. But you didn't have to produce it?

A. I didn't have to produce it.

Q. And you didn't have to produce a passport or any identification?

A. No, no.

Q. And can I take it that the money was just handed over and he accepted that you were the person he should hand the

money over to?

A. Correct.

Q. And you have a clear recollection that when the first contact was made by telephone when you were looking for the money, the only query raised by Mr. Collery related to the fact that it was a large sum of money to withdraw?

A. That's correct.

Q. Was that in the context that it may take some time?

A. That's the way he put it to me.

Q. That's the way it came across to you.

A. Yes.

Q. And you have no doubt on that occasion he told you that your money was being looked after or your investment was being looked after by Mr. John Furze?

A. That is correct.

Q. And he wasn't in any way trying to pass you off or anything

A. No, no.

Q. He was going to deal with you

A. That's correct.

Q. He wasn't saying, "I have nothing to do with this, go and talk to Mr. John Furze," he was going to deal with it?

A. I put it to him I never dealt with Mr. John Furze and didn't know him and I was depending on him.

Q. Yes. But you were clearly aware as of August or at the latest, September of 1995, that a Mr. John Furze had taken over the control of your money and was operating it on your

behalf in the manner Mr. Traynor had?

A. That is correct.

Q. And that it was offshore?

A. That it was offshore, yes.

Q. Now, having received the €50,000 in cash, can I take it that it was you who specified you wished to have it in cash?

A. I did, yes.

Q. And was that because that was the usual arrangement I know you had been given a draft on one occasion and of course the reason why it should be in cash would be that there would be no trace of it, is that correct?

A. That is correct, even if drafts were suggested, then I would have taken drafts at that stage because I put it into drafts the following day.

Q. But you certainly didn't want any trace of it, you didn't want anyone to know where it had come from?

A. Well that was the position.

Q. Isn't that right?

A. That is correct, yeah.

Q. Now, you got the €50,000 in cash and you have informed the Tribunal that you converted that cash into two bank drafts in the Bank of Ireland in Tralee, is that correct?

A. That is correct, Sir.

Q. Were they in equal amounts - the drafts?

A. Two 25s, I have given copies of it to the Tribunal as far as I can remember.

Q. Two €25,000 drafts. And that you kept the drafts with a view to paying the Revenue Commissioners until December of 1999?

A. That's right. I was trying to get my affairs sorted out and eventually made arrangements with an accountant here in Dublin.

Q. So when you took the €50,000 out in cash, it was for the purpose of sorting out your affairs with the Revenue?

A. That is correct.

Q. Why then, may I ask, Mr. Foley, did you not want any trace of the transaction?

A. I would be declaring it. It was obvious at that stage, the only way I could get it was either in cash or drafts.

Q. How was that obvious?

A. Because I was it wasn't it was offshore money and I was putting it into drafts with the idea of making a submission to the Revenue Commissioners.

Q. About your offshore investments?

A. About my offshore investment.

Q. Why didn't you just sorry, just for the moment why wouldn't you just tell them and then repatriate the money?

It's a simple question.

A. That is true but I preferred to have something that I could pay on account. Even at that stage I was sick of the whole situation, I was trying to bring it to finality.

Q. Well are you being fair to yourself there, Mr. Foley?

Could that possibly be the case? You had obtained the

withdrawal in the most unusual of circumstances

A. Correct, yeah.

Q. In a hotel lobby everything designed to conceal the transaction, isn't that correct?

A. That's correct.

Q. And to conceal the presence of the offshore nature of the transaction, isn't that correct?

A. That is correct.

Q. You then converted this cash into drafts?

A. Two drafts.

Q. And are you saying that that whole concealment is consistent with you being of the view as of that time that you were just going to rectify the affairs and bring the offshore nature of the investment to the attention of the revenue as of that time?

A. That is correct.

Q. You are saying it's consistent with that?

A. I do believe that and that is correct.

Q. And you kept those two drafts where?

A. In my private residence.

Q. Up until December of 1999?

A. Correct,.

Q. Is that correct?

A. Correct.

Q. Perhaps you, in fairness to you, perhaps you didn't understand the question I was putting previously or I put it inelegantly. The nature of the transaction you had with

Mr. Traynor was to ensure that the whole matter was concealed, isn't that right?

A. Well what I had with him was to get €50,000 for me.

Q. In cash?

A. In cash in Irish pounds.

Q. The whole nature of that transaction was to conceal the transaction itself and the fact that the source was offshore, isn't that correct?

A. That is correct, at that time.

Q. Now you have told us that the reason why you did it was to get the money to put your affairs in order.

A. That is correct.

Q. In this jurisdiction?

A. That is correct.

Q. What I am saying to you or I am asking you is, aren't those two particular positions inconsistent?

A. I'd been making a full statement, which I had to the Revenue Commissioners, of the money that came in, paying the €50,000, came from offshore money, I had given a detailed statement from the 5th October 1979 to the Revenue Commissioners to my accountant.

Q. What I am trying to just be clear and perhaps again I am not expressing myself well, Mr. Foley, but that wasn't done at the time that this transaction occurred, isn't that right?

A. No, it wasn't, that wasn't done at that time.

Q. Now, I think you were or would have been aware as of

September 1995 that you continued to have monies offshore?

A. That is correct.

Q. And that they were under the control of a Mr. John Furze?

A. That's correct.

Q. And that the only way to get access to them was to make contact with Mr. Pdraig Collery, isn't that correct?

A. That is correct.

CHAIRMAN: Can you recall, Mr. Foley, when it was that you engaged the Dublin accountant to start the business of trying to put your affairs in order?

A. November/December 1999.

CHAIRMAN: Of '89?

A. No, '99.

CHAIRMAN: '99.

A. Sorry, Chairman, I had discussed it previously with him in, prior to August, the 18th August 1998. I had made an appointment for that date with my accountant.

CHAIRMAN: Yes. That's the date we have heard that you had the airport meeting.

A. That's correct.

CHAIRMAN: It's probably as good a time as any to leave it until ten to two.

THE TRIBUNAL THEN ADJOURNED FOR LUNCH.

THE TRIBUNAL RESUMED AS FOLLOWS AT 1:50PM:

CONTINUATION OF EXAMINATION OF MR. FOLEY BY MR. COUGHLAN:

Q. MR. COUGHLAN: Now, I think after you met with Mr. Collery in 1995 in Jurys Hotel when he gave you the money?

A. That's right.

Q. Did you receive any statements in respect of your affairs?

A. No, Sir.

Q. Did you make any inquiry as to how your monies were doing?

A. I just wanted to get statements.

Q. You wanted to get statements?

A. I wanted to get statements. I am not sure whether I mentioned it at that time or not, you know.

Q. Right. But can we take it you didn't receive any statements?

A. No, I didn't receive any statements.

Q. And did you contact Mr. Collery to say that you wanted statements?

A. At a later stage then, I contacted Mr. Collery and I arranged a meeting for

Q. That was in 1998, is that correct?

A. 1998.

Q. But between 1995 and 1998

A. No.

Q. did you get any information?

A. No, I got no information.

Q. Did you ask Mr. Collery for any information?

A. I don't recollect asking him to be honest.

Q. Well did you ever ring him up and find out what the balances might be?

A. No, I definitely did not do that.

Q. You didn't do that?

A. No, no.

Q. But you knew that you still had monies

A. I did.

Q. which Mr. Furze was looking after?

A. You see, the only time I heard Mr. Furze mentioned was prior to that and I had indicated to Mr. Collery that I had not heard or met Mr. Furze and that he was the representative as far as I was concerned, when Des Traynor was dead.

Q. You explained that?

A. That's right.

Q. But you knew that a Mr. Furze was looking after your money, isn't that right?

A. I certainly did not, Sir I was concerned that if I gave that impression I didn't know that Mr. Furze

Q. Mr. Foley, let's go back over the evidence you gave before lunch.

A. That's correct, Sir, I accept that.

Q. Let's go back over the evidence you gave before lunch.

You said before lunch that you were told by Mr. Collery that Mr. Furze

A. Was looking after the account?

Q. Yes. And that you knew that as of then, that Mr. Furze was looking after the account and that Mr. Collery was the person here whom you would make contact in relation to it.

That's what you said before lunch, isn't that correct?

A. If that is so

Q. Isn't that correct?

A. If I did say it

Q. Isn't that correct, first of all?

A. If you say I said it, I accept it, Sir, but that is not my impression of the situation.

Q. When did you decide that was that? Was that over lunch, Mr. Foley?

A. When I heard the news

Q. I didn't hear any news. I haven't heard any news.

A. I was listening, they indicated that I knew at that stage that Mr. Furze was looking after the account.

Q. Isn't that you told this Tribunal, sworn evidence in the witness-box this morning?

A. I accept that. If I did, I was wrong, because what I pointed out Mr. Coughlan was, that I hadn't met or dealt with Mr. Furze and that Mr. Collery was the representative as far as I was concerned.

Q. Absolutely.

A. Correct.

Q. But I want to go over exactly what you said and what I am suggesting to you, Mr. Foley, is that you are now attempting to change your evidence over the luncheon

break.

A. No, Mr. Coughlan, I don't wish to change, I just want to clarify the situation.

Q. No, I am suggesting you are attempting to change your evidence, Mr. Foley. Now let's go over it bit by bit in great detail.

A. Okay.

Q. I am just going to do it now in a moment because I was specifically looking at the transcript in respect of what you just said.

You knew as of then that your monies or investment were being dealt with by Mr. John Furze, isn't that correct?

A. That is right, Mr. Coughlan, certainly. But I still maintained the only two persons looking after my account were Des Traynor and Padraig Collery.

Q. Mr. Foley now

A. I don't wish to be awkward.

Q. I am suggesting you wish to change your evidence over the luncheon period over something you may have heard on the radio.

A. Yes, that is correct.

Q. Isn't that so?

A. I don't wish to change my evidence. I just want to clarify the position.

Q. No, Mr. Foley, you knew and you confirmed to me in a question I asked you before lunch that you knew as of then that your funds were being looked after by a Mr. John Furze

and that Mr. Pdraig Collery was the person you would contact here in relation to it either for the withdrawal, the making of lodgments or the obtaining of information, isn't that correct, isn't that what you knew?

A. As far as I was concerned, Pdraig Collery was still the man here.

Q. Yes, absolutely right.

A. That's correct.

Q. But there was a Mr. John Furze?

A. He came into the equation.

Q. And that the monies he was looking after were offshore, is that correct?

A. Offshore, yes.

Q. You knew all of that?

A. Offshore, he indicated to me they were offshore.

Q. You knew all of that. You knew those ingredients, isn't that right?

A. Mr. Collery stated to me that John Furze was looking after my account and I said to him

Q. Offshore?

A. Offshore, yes, and I said to Mr. Collery that I was dealing with him from the time that's the position.

Q. Yes, so let's be clear. You knew as of then. You always knew your money was offshore?

A. That's correct.

Q. You always knew that Mr. Des Traynor was looking after your money?

A. That's correct.

Q. And not Guinness & Mahon, isn't that correct?

A. That's correct.

Q. You knew as of then that's in 1995, after Mr. Traynor's death, that your money was still offshore?

A. That's right.

Q. That you were making a withdrawal there?

A. That's right.

Q. That there was still money there?

A. That's correct.

Q. And that Mr. Collery was the person here that you dealt with?

A. That's correct.

Q. And that the person looking after the money offshore was a Mr. John Furze. You knew all of that?

A. That's what Mr. Collery said to me.

Q. But you had no reason to disbelieve and you knew that then?

A. I had no reason to disbelieve him then.

Q. You knew it then, isn't that correct?

A. Yeah, that's it, yeah.

Q. Now, I then asked you that between then, when you knew that your money offshore was being looked after by a Mr. John Furze, did you make any inquiries of Mr. Collery here for any information about the account prior to 1998?

A. No, Sir.

Q. In August of 1998, you had a meeting with Mr. Padraig Collery at the Trust House Forte hotel

A. That's correct.

Q. At Dublin Airport.

Q. How did that meeting come about?

A. I had phoned him and told him I wanted to have a meeting to discuss my affairs and that I wanted statements.

Q. Yes.

A. And I eventually fixed with him then for the 18th August.

Q. Yes.

A. In the meantime I phoned my accountant in Dublin to know would it be possible to meet him on the 18th at approximately 12 noon, that I would have the statements.

Q. Yes.

A. That was it. And I flew up from Farrenfore that morning and met Mr. Collery at the airport and he collected me and we went onto the hotel and at the hotel, I asked him about the statements. He said he had no statements so I indicated to him that it was very disappointing, words to that effect. It was very short after that. In the meantime, we ordered coffee prior to that and I don't believe we finished it. We left there was no other discussion only statements. And he left in his own car and I took a taxi from the airport or from the hotel.

Q. Very good.

A. Sorry, I should have said, I again asked him for the statements.

Q. Yes

A. Now, as far as I can recollect, he did say to me he was

very busy. That's as far as I can go. But that I would definitely get the statements.

Q. Now, was it in August of 1998 that you contacted Padraig Collery to arrange the meeting?

A. That is correct.

Q. And you called him to arrange a meeting?

A. That's right.

Q. And as far as you were concerned, the purpose of the meeting was to obtain statements from him?

A. That's correct.

Q. In respect of your offshore monies which had been, as you knew from 1995, been managed by a Mr. John Furze or looked after by Mr. John Furze?

A. That's correct.

Q. You knew that

A. That's correct.

Q. And you wanted statements about that?

A. I wanted statements.

Q. If

A. Going back to '79, by the way.

Q. Going back to '79.

A. Yeah.

Q. Now, if it was statements first of all, on the 18th August, can I take it that you were down at your home in Kerry and there was no Dail business here in Dublin?

A. No, no Dail business.

Q. So it was specifically for the purpose of this meeting and

a meeting that you had arranged with your accountant that you were coming to Dublin?

A. That's correct.

Q. And had you arranged the meeting with your accountant before you had arranged the meeting with Mr. Collery or was it the other way around?

A. No, no, I had to fix the date with Mr. Collery before I arranged the date with my accountant.

Q. Now, you wanted to bring to your accountant, is that correct

A. That's correct.

Q. statements about offshore monies which you had to enable him to bring your affairs up to date

A. That's correct.

Q. and to take such appropriate steps as you may be advised in respect of, is that correct?

A. That's correct.

Q. And that was in August of 1998?

A. '98.

Q. Had you any idea at that stage of what the balances might have been?

A. No, I had no idea, Sir.

Q. And the only purpose that you wanted to meet Mr. Collery for was to obtain the statements?

A. That is correct.

Q. Is that right? The only other occasion on which you had received any statements in respect of your monies had been

from Mr. Traynor way back in the early

A. '83.

Q. And they had come by post as a result of a telephone request?

A. Correct.

Q. Was there any reason why Mr. Collery couldn't have sent them to you by post?

A. Not to my knowledge. As far as I was dealing with Des Traynor. I understood it came from Des Traynor.

Q. We know that. That was those particular statements. Des Traynor was dead now.

A. Yeah.

Q. All you wanted from Mr. Collery was statements, isn't that correct?

A. That's correct.

Q. Couldn't they have been sent to you by post?

A. The statements eventually were sent to me by post.

Q. I am asking you at this time could they not have been sent to you by post?

A. In August?

Q. Around the time you requested them in August of 1998?

A. Well the fact that I had a meeting arranged, I said I would collect them in Dublin.

Q. No, I think Mr. Foley

A. They could have been sent to me, yes, there is no question

Q. Just to be fair to you

A. They could have been sent.

Q. You arranged the meeting with Mr. Collery before you arranged the meeting with your accountant, you told us.

A. I was in discussions with my accountant and he told me I would have to get statements.

Q. Mr. Foley, would you just listen to the question please?

You have told us that you say you had arranged the meeting with Mr. Collery first and then you arranged the meeting with your accountant.

A. That is correct.

Q. So the fact that you were coming to Dublin to meet your accountant was not the reason why you set up the meeting with Mr. Collery?

A. No, that's not true, Sir. I had spoken to Mr. Collery and he said he would have the statements. He had the option of sending them to me by post if he so wished, but I was from once I knew I was meeting him, I arranged a meeting with my accountant.

Q. Tell us about that again, Mr. Foley, that you had a telephone conversation with Mr. Collery and in that telephone conversation, he said to you that he could send them by post if you wished

A. No, he did not.

Q. What did he say to you?

A. He said to me he would arrange to get them and I said I'd be going to Dublin sometime in August and I would let him know if the 18th wasn't okay. Then I phoned my accountant

to see if he was available for the 18th which he was and I arranged then, I informed Mr. Collery, I'd be going to Dublin on the 18th and I'd collect the statements.

Q. Mr. Foley, you have just told us, and we have to take this slowly again.

A. Right.

Q. You have already told us that you arranged a meeting with Mr. Collery in the first instance.

A. That's right.

Q. And it was only when you knew about the arrangements of the meeting with Mr. Collery that you made contact with your accountant for the same day?

A. I did, to see if he would be available. If not I that is true that is true.

Q. What I am asking you to consider is this, that the meeting arranged with Mr. Collery was arranged before you arranged the meeting with your accountant?

A. That is correct.

Q. So the fact that you have a meeting with the accountant on the same day is because you had arranged to meet Mr. Collery on that day and not the other way around, isn't that correct?

A. That's because I had arranged to meet Mr. Collery, yes.

Q. And what I want to know is this, why, if it was only statements you required from Mr. Collery, was there a meeting being arranged?

A. There was actually no meeting. It was only just I agreed

to travel to Dublin to collect the statements.

Q. But tell us about that. You see I asked you why couldn't they just have been sent by post.

A. They could have been sent by post but the time was against me. I was trying to get them finalised. I was trying to get them into my accountant. I had only spoken to him some days prior to that.

Q. You are saying, just think about that now, Mr. Foley, the time was against you, you needed to get them finalised.

This was in August.

A. That's correct.

Q. What time was against you and what was being finalised in August?

A. I wanted to get them to my accountant before he went on holidays, to work on the statements, to make a submission to the Revenue Commissioners.

Q. And that you were going to disclose to the Revenue Commissioners

A. That's correct.

Q. the offshore nature of your monies?

A. That's correct, Sir.

Q. And this was a matter of urgency?

A. It was, yeah.

Q. As far as you were concerned?

A. It was.

Q. Well let's look at that now. You didn't get statements at the meeting.

A. No.

Q. I take it your accountant went on holidays?

A. I cancelled the meeting with him then. I don't know whether he went on holidays, but I cancelled the meeting because and then I rearranged another meeting for the 10th September, as far as I can remember, I am not factually correct about that now, but then Mr. Collery did promise me I would get the statements. There was a history of problems with regard to statements on that account.

Q. Yes? Go on.

A. And that was the position.

Q. So you arranged another meeting with your accountant, is that right?

A. As far as I remember I did, and to see would there be any way he could make a submission. I actually cancelled that meeting again on the basis that I didn't have the statements, I thought he could work without the statements.

Q. You thought what?

A. I thought he could work without the statements. When I first discussed it with him, he said he would want detailed statements so as to make a submission.

Q. Yes?

A. And that's why I phoned Padraig Collery for the statements and I arranged, I said I would meet him in Dublin if he could give me a date. And he gave me date the 18th August. I phoned back my accountant aunt asked would it

be possible to meet him on that day or even the following day and I would stay over. So he agreed to meet me at 12 o'clock on the 18th August.

Q. But the reason you say that it was to be a meeting and it was to be that date was because you were under pressure as regards time and you wanted your accountant to do the necessary work in the first instance before he went on holidays. Now that couldn't happen obviously because you didn't get the statements at the meeting and that is what you said.

A. That is correct.

Q. You then arranged a further meeting which you again cancelled because you didn't have the statements.

A. I didn't have the statements.

Q. Did you arrange any further meetings?

A. No, I arranged no further meetings.

Q. You arranged no further meetings?

A. No.

Q. Although it was a matter

A. Correct.

Q. which was pressing

A. It was pressing on my mind.

Q. That you wished to do that?

A. That's right.

Q. And you arranged no further meetings?

A. No further meetings.

Q. And you made no further contact with Mr. Collery?

A. No further contact, no.

Q. Now, in the meeting you had with Mr. Collery in August of 1998, you say that you rang him?

A. I did, yes.

Q. Where did you ring him?

A. I had got his number, I had met him in '91 and he had given me a number, a contact number at that stage.

Q. What was that contact number?

A. I haven't it with me now, but it wasn't it wasn't Guinness & Mahon or Des Traynor. It was another number.

Q. In 1991?

A. '91, yeah.

Q. Mr. Collery you had met Mr. Collery and he had given you a contact number, is that right?

A. Let me see now, yeah yeah, in '91

Q. You met him and he gave you a number, is that right?

A. That's right, yeah. I can submit the number. I think I still have it.

Q. Mr. Foley, where did you meet him when he gave you that number?

A. Sorry, I didn't meet him I think. He phoned me, as far as I can remember.

Q. Very good. Now you started off this evidence by saying that you "met him in 1991 and he gave me a contact number at that stage." That's what you said, isn't that right?

A. That's correct, that's what I said. But actually as far as

Q. Just bear with me.

A. But, Mr. Coughlan

Q. Mr. Foley, just bear with me. Is that what you said? You say that you noted the number, is that correct?

A. That's right.

Q. And that that is the number that you used. That's what you said is that you said first of all?

A. That's what I said.

Q. What are you saying now?

A. Give me time to reflect now. I am a bit confused there now.

Q. Very good. Well, take your time.

A. No, he actually wrote to me in March and he gave a number. It was a private number.

Q. So are you saying

A. It's on the correspondence there.

Q. Mr. Foley, are you saying you have just given evidence that you had a meeting in the first instance.

A. I am sorry, Sir

Q. You then said that he rang you in 1991, is that right?

A. Yeah.

Q. Did he do either of those two things in 1991?

A. Not to my knowledge. I got a letter in 1990 from him.

Q. Yes?

A. And there was a number on it.

Q. Mr. Foley, could you have met him in 1991?

A. Not to my knowledge, Sir.

Q. Well what do you mean not to your knowledge? You either did or you didn't. Did you meet Mr. Collery in 1991?

A. My first time meeting Mr. Collery was in 1995.

Q. I want you to listen to the question I am asking now and I want a specific answer to it.

A. Right.

Q. Did you meet Mr. Collery in 1991?

A. No, Sir. It was Mr. Traynor I met.

Q. You didn't meet Mr. Collery?

A. No.

Q. Did you receive a phone call from Mr. Collery in 1991?

A. No, Sir. I was confused there with Mr. Traynor. I met Mr. Traynor in 1991.

Q. How could you be confused with Mr. Traynor if you hadn't met Mr. Collery?

A. No, I hadn't

Q. How could you be confused with Mr. Traynor?

A. I am not confused either. I met Mr. Traynor in 1991.

Q. I know you met Mr. Traynor in 1991 but Mr. Collery had written to you in 1990 asking him to contact you for the purpose of meeting him. What I want to inquire of now, Mr. Foley, is did you meet him?

A. No, Sir.

Q. And that's your answer under oath in respect to that?

A. That's my answer under oath.

Q. So your evidence is that you arranged the meeting in 1998, you rang the number, the number which was in the letter of

1990 which the Tribunal has blanked out for the moment, is that correct?

A. I will say now, Mr. Coughlan, that when I met Mr. Traynor in 1991, I still think at that that he did give me Padraig Collery's number in 1991.

Q. Why?

A. That just in case I would need it and he was moving into his office.

Q. I beg your pardon?

A. Words to that effect. I think he mentioned that he referred to the letter and I said I got the letter in 1990 from Padraig Collery and he asked me to meet him, which I didn't do. And I was discussing with him about the closing of the account at that stage. As far as I can remember, he gave me a contact number for Padraig Collery, whether it was the same number as on the correspondence or not, I am not sure. But I can provide that number.

Q. Where is it?

A. I have it in my telephone directory, diary. I can give it to you.

Q. Now, you have informed us that as a result of not receiving statements from Mr. Collery at Dublin Airport on the 18th August 1998, you cancelled an appointment you had with your accountant for that afternoon for sometime later.

A. That's correct.

Q. But that you made a new appointment for sometime in September?

A. Yeah.

Q. Was that on the occasion that you cancelled the first appointment?

A. When I cancelled the first appointment, I wrote to him apologising for cancelling it and, as far as I know, I arranged another meeting then as well and I may have done it when I cancelled it by phone. But there is letters there by him where I wrote to him towards the end of August apologising for cancelling it.

Q. So that when you cancelled the first meeting and arranged the second meeting, whether it was then or some little time later

A. Correct.

Q. You would have expected or you must have expected to have the statements to bring to your accountant?

A. That is correct.

Q. And when you left Mr. Collery at Dublin Airport without the statements, what arrangement had been made about receiving the statements?

A. What I said to him he could send the statements out to me.

Q. He could send the statements?

A. Out to me. And he did indicate that he was very busy, but to bear with him.

Q. I beg your pardon?

A. To bear with him, that he was very busy.

Q. Yes. But you must have expected them within the timescale that you arranged the second meeting, which is September?

A. That's correct.

Q. They didn't arrive?

A. No.

Q. Did you ring Mr. Collery?

A. I tried to get him, as far as I can remember, and the phone number was ringing out.

Q. What do you mean ringing out?

A. There was no answer. It rang out, the phone number.

Q. Yes?

A. I left it then and

Q. Sorry, could I take you back for a moment. When you made the first contact to arrange the meeting of the 18th

August.

A. That's right.

Q. Was the phone

A. There was no problem, it was the same number.

Q. It was the same number?

A. Yeah.

Q. And was it answered by a secretary?

A. It was I think it was answered by a lady.

Q. It was answered by a lady?

A. Yeah, I think so.

Q. And what did you say?

A. I said I wanted to talk to Mr. Collery.

Q. Yes? And what did the lady say to you?

A. As far as I know, she gave me another number to contact him at.

Q. Was that a mobile telephone number?

A. No, no, it was a Dublin number.

Q. She gave you another number to contact him?

A. A Dublin number.

Q. A Dublin number?

A. A Dublin number, yeah.

Q. And when you rang that Dublin number, what happened?

A. I spoke to himself.

Q. Directly?

A. Yeah.

Q. So now you had two numbers?

A. That's right.

Q. And are those two numbers in your telephone directory?

A. I have the two numbers, yeah.

Q. In your telephone directory?

A. In the telephone directory, yes.

Q. In your own maintenance?

A. Yeah.

Q. Now, which number did you ring when you didn't get the statements for the second meeting with your accountant?

A. I rang the first number, as far as I can remember, because I had I rang the number I got through to him previously himself, because I rang him I had my diary was in Dublin and I had that on a slip of paper. I didn't have the second number when I was phoning him the second time.

I rang the original number, where I got through to him.

Q. Do I understand that on the second occasion, the number you

rang was the number the lady gave you?

A. That's right, yeah.

Q. But you didn't ring the number which was the contact number?

A. No, Sir, because I didn't have that on me. I had the bit of paper where she had given me the number and I eventually put it back into the directory then.

Q. Where was that bit of paper?

A. I had it in my in my pocket actually. It was in an envelope.

Q. Is this sometime in early August of 1998?

A. Correct.

Q. It was in your pocket since early August, sometime prior to the 18th August?

A. Sometime prior to the 18th August.

Q. And the other number was in your directory?

A. That's right, yeah.

Q. Which was the contact number you had been given?

A. That's right.

Q. And when you didn't receive the statements for the second meeting that you had arranged with the accountant, where were you?

A. Where was I?

Q. Yeah.

A. I was in Tralee at that stage.

Q. Yes. And you still had this number on a piece of paper?

A. I had, yeah.

Q. It had not gone into the directory?

A. No, it had not gone in at that stage.

Q. Where was the directory?

A. In Dublin.

Q. Where in Dublin?

A. In my office.

Q. And you would have left your directory in Dublin during the summer holidays?

A. I had left it there by mistake.

Q. For the whole summer?

A. I was up yeah, I knew I'd be coming back in October.

Q. But in any event, you remembered this piece of paper in an envelope.

A. Correct.

Q. Why did you put it in an envelope?

A. That's where I got it from her and I just wrote it down.

I got the number from her.

Q. Yeah, but why did you put it in an envelope?

A. Because that's what I had handy on me at the time.

Q. I thought you said it was a note in an envelope?

A. In an envelope yeah, I'd normally keep an envelope, and I had it inside in the envelope.

Q. And you attempted to ring that number and you got no response?

A. Got no response.

Q. And you cancelled the next meeting.

A. Correct.

Q. But you didn't arrange a further meeting?

A. No, I didn't arrange a further meeting.

Q. And was that the only step you took to contact Mr. Collery to get statements?

A. That's correct, Sir. I was sick of it at that stage. I was trying to bring it forward. And I had to depend, because there was a history of no statements and I had to depend on him to get the statements.

Q. Yes, there was a history, that's right, Mr. Foley. But you have told us that you needed to get those, you had discussed the matter with your accountant.

A. That's correct.

Q. About your offshore situation?

A. That's correct.

Q. And he giving appropriate advice to you, advised you that he'd need the statements to deal with the Revenue, is that correct?

A. That's correct.

Q. And you took no further steps?

A. No, not at that

Q. And can I take it that it must have come as a bolt out of the blue when you did receive the statements without having asked for them, isn't that right?

A. I was depending the whole time that I would get the statements.

Q. And you did?

A. I got them eventually.

Q. They arrived by post?

A. Arrived by post, yeah.

Q. And you knew that that's what you had requested from Mr. Collery, isn't that right?

A. I only got statements I think from '93 to '97.

Q. Yes, but this is what you had asked?

A. I had requested statements, but I was shocked when I got the statements.

Q. Well yes you got the statements and you saw on the statements, if we just put up, just the first page of one what shocked you about them?

A. The heading.

Q. Right, well we will just look at the heading. Just the heading please. What shocked you was Ansbacher Limited, was it?

A. That's correct.

Q. And I think in some further other statements you see the name Hamilton Ross as well as, isn't that correct?

A. That's correct.

Q. And did that equally shock you?

A. It did, yes. I was hoping against hope they were not my statements.

Q. You were hoping against hope

A. There was no mention of my name on the statements.

Q. Oh yes, Mr. Foley, you were hoping that there was no mention of your name on the statements, isn't that correct? Isn't that correct, Mr. Foley?

A. No, no. I wanted statements with my name on them.

Q. Mr. Foley, this was 1998.

A. That's correct.

Q. You had been a member of the Dail

A. That's right.

Q. Sorry, this was 1999. You had been a member of the Dail

which had passed a resolution resulting in the

establishment of the Tribunal chaired by Mr. Justice Brian

McCracken, isn't that correct?

A. That's correct, Sir.

Q. And that particular inquiry was to carry out inquiries of

payments from Dunnes Stores companies, I use that

generally, to politicians, isn't that correct?

A. Correct.

Q. And when that Tribunal of Inquiry reported, it reported I

think in August of 1997, isn't that correct?

A. That's correct, yeah.

Q. And you were a member of the Dail?

A. That's correct.

Q. And I think the Dail was reconvened in the holiday period,

isn't that correct?

A. That's correct.

Q. For the purpose of receiving this particular report and

debating it, isn't that correct?

A. That's correct, yeah.

Q. And resulting from that, this particular Tribunal of

Inquiry was established, isn't that correct?

A. That's correct, yeah.

Q. Dealing with certain named politicians but with an emphasis directed towards the Ansbacher accounts, isn't that correct?

A. Correct, Sir.

Q. And there can be little doubt but that you, as a member of the Dail, were aware from the report of the McCracken Tribunal, there were certain common ingredients to what would be described, in broad terms, as the Ansbacher accounts, isn't that correct?

A. That's correct.

Q. And those were Mr. Des Traynor, offshore, the bank Guinness & Mahon being used, Mr. John Furze, 42 Fitzwilliam Square, Mr. Pdraig Collery, Hamilton Ross, isn't that correct?

A. That's correct, Sir.

Q. Now, before you ever received these statements, could you possibly have not realised that your monies which Mr. Traynor initially had been looking after and then Mr. Furze had been looking after were in the Ansbacher accounts?

A. I was still hoping against hope, because the Tribunal that was set up was to investigate payments to various people, in particular Mr. Haughey, and it was a well-known fact that I wasn't a Haughey supporter and we got some correspondence at the time to sign which I had no intention of signing.

Q. I am not dealing with that.

A. I just want to make that point. I still believed that

there was a hope

Q. You believed what?

A. I still believed at that stage that I wasn't in Ansbacher. I knew I had an offshore account.

Q. You still believed

A. I was still hoping.

Q. You were still hoping.

A. Yeah.

Q. But you were hoping, but there could have been little doubt but that you were aware that my God, I am in Ansbacher as of the time that this Tribunal reported, isn't that so?

Isn't that so?

A. Mr. Coughlan, I don't accept that at that time. Now, I know it came up in '97. I was still hoping, and I am on oath, and I believed that I wasn't in Ansbacher.

Q. Now, why did you believe that you weren't in Ansbacher?

Give me the reason why you believed that, Mr. Foley?

A. Well, because when I discussed it with Des Traynor, when I invested the first day, he gave me the name of a company and Des Traynor knew I'd been a politician, that I should not be in an Ansbacher situation.

Q. What's an Ansbacher situation, Mr. Foley?

A. Well I believe an Ansbacher situation in regard to payments to politicians.

Q. What?

A. In regard to payments to politicians, the Ansbacher situation, that was my interpretation of it.

Q. There was huge controversy about the Ansbacher situation?

A. That's correct, Sir.

Q. Was there any controversy in 1979?

A. '79?

Q. Yes.

A. Not to my knowledge.

Q. Ansbacher didn't even exist in 1979. It was under a different name?

A. Yeah.

Q. So there couldn't have been

A. Yeah.

Q. Now, I am asking you the reasons why you believed you were not in Ansbacher and you offer as the reason that when you went to Des Traynor, that he would have known that you, as a public representative, should not be in an Ansbacher situation, is that what you are saying?

MR. BARNIVILLE: I am sorry to interrupt, Mr. Coughlan, I do apologise but the first answer that Mr. Foley gave was that Mr. Traynor had given him the name of another company. I do apologise.

MR. COUGHLAN: Absolutely. I stand corrected. That he gave you the name of a company and that he knew that you should not be in an Ansbacher situation.

A. That's correct, yeah.

Q. Or he should have known. And those are the two reasons why you believed that?

A. It was. I wasn't a TD in '79.

Q. You weren't a TD in '79.

A. Yeah.

Q. But even allowing for the continuing period, you say, when I asked you what was an Ansbacher situation what did you understand when the controversy arose to be an Ansbacher situation, Mr. Foley?

A. Well as I understood it, what the speculation at the time was payments to politicians, Mr. Haughey, Mr. Lowry, and the question of Dunnes Stores came into it as well.

Q. That was initially what arose from the McCracken Tribunal, isn't that correct?

A. Yeah.

Q. Wasn't there massive controversy about the Ansbacher situation being a scheme to defeat the tax authorities in this country? Wasn't there huge controversy about it?

A. That is correct.

Q. And isn't that what the real controversy about the Ansbacher situation has been about, isn't that correct?

A. That is correct.

Q. To the extent that there were attempts in the Dail and in commentary outside the Dail that this Tribunal should inquire into and report on all of the people who were in Ansbacher, isn't that correct?

A. That is correct, but I still believed the whole time I wasn't in Ansbacher. I just want to get that on the record, Mr. Coughlan.

Q. Mr. Foley, I am testing the reasons why you say that. I am testing the reasons why you say that. And I am asking you then to look at the evidence on the other side. All right?

A. Right, Sir.

Q. So an Ansbacher situation was about putting money offshore, clouding its existence, using it in the most secretive way to ensure that it couldn't be discovered, isn't that right?

A. That is correct.

Q. And not declaring it to the Revenue authorities in this country by Irish residents, isn't that what Ansbacher was about, Mr. Foley?

A. That's correct.

Q. And isn't that what you understood it to be about?

A. That is correct.

Q. And you, as a TD, participating in the business of the House or as a citizen outside always understood it to be that?

A. That's correct.

Q. And when this Tribunal of Inquiry, that is the McCracken Tribunal of Inquiry reported, you knew that Mr. Des Traynor had been involved in the setting up of that particular type of operation and that it was now under the heading or being designated in broad terms as Ansbacher accounts, isn't that correct?

A. I don't recollect, but if you say that was the picture, I accept it, Mr. Coughlan.

Q. Can there be any doubt from

A. I accept what you say.

Q. Can there be any doubt of it, Mr. Foley?

A. No, I accept what you say.

Q. Now, you knew you had been dealing with Mr. Des Traynor?

A. That's right.

Q. You knew your money had not been declared to the Revenue, isn't that right?

A. That's right.

Q. You knew that it was offshore?

A. That's correct.

Q. And you knew that you had transactions in relation to it which were designed to ensure that it would never be discovered, isn't that correct?

A. That is correct.

Q. Armed with those simple pieces of evidence, I must suggest to you that it that alone must have caused a question to be raised in your mind that I must be in Ansbacher if Des Traynor is in it and he did all of that, is that right?

A. That is correct. Might I add I was still hoping that I was not in Ansbacher.

Q. I understand that.

A. I was actually sick of it at the time.

Q. I know. You were worried about it, weren't you?

A. I was certainly worried about it.

Q. You were very worried?

A. And stressed.

Q. And perhaps I will come to that in a moment. You then had added to your store of knowledge from the report of the the report of the proceedings of the McCracken Tribunal and the actual report of the Tribunal furnished to the Dail, that over and above those particular characteristics, that is Mr. Traynor, offshore, hiding it, making it secret, matters not being declared to the Revenue, that a man called Mr. John Furze was involved in it, isn't that correct?

A. That's correct.

Q. You found that out from the report. You also found out from the report and from the evidence of the proceedings at the Tribunal that a Mr. Pdraig Collery was involved in handling certain transactions in respect of it?

A. That's correct.

Q. Now you knew, as and from 1995, that after Mr. Traynor's death, your money was now being looked after or was under the control at least of a man called Mr. John Furze, isn't that right?

A. Mr. Collery gave me that information.

Q. You knew it?

A. Yeah.

Q. You knew it?

A. That's correct.

Q. And you knew that you were dealing with Mr. Collery for the purpose of accessing your accounts, isn't that right?

A. That is correct.

Q. Now, whilst you continued to hope, Mr. Foley, wasn't it becoming more and more obvious that the evidence was stacking up and it was overwhelmingly suggesting to you that your money was in Ansbacher?

A. That is correct, Sir.

Q. And can I ask you this, that could it be that the reason and I can understand that you were worried and stressed could it be that the reason why the meeting was arranged with Mr. Collery was to ascertain what information linked you in Cayman to the accounts?

A. No, Sir, the purpose of the meeting was to get the statements to give them all to my accountant to prepare a submission to the Revenue Commissioners.

Q. Mr. Foley, does that stand up at all? Does that stand up? And I will ask you in the light of what transpired subsequently. You say you arranged a meeting with your accountant. I accept you arranged a meeting with your accountant. You did not have to keep that meeting because you didn't have the statements, isn't that right?

A. That's correct.

Q. You say you arranged a further meeting your accountant?

A. That's right.

Q. That didn't take place?

A. That's right.

Q. You arranged no further meeting with the accountant and apart from making one phone call to one number, you had to contact Mr. Collery, you say you took no further steps to

get the statements. So Mr. Foley, let's be real about this. What is this that you were, at that time, wanting to get the statements for the purpose of giving them to your accountant to bring the matter to the attention of the Revenue Commissioners? That had been your thinking since 1979, isn't that correct?

A. I always had every intention of declaring the money.

Q. Can I ask you this, Mr. Foley. You received the statements in May of 1999. Did you take them to your accountant then?

A. No. I got them in May, sometime towards the end of May. I left them there hoping that it wasn't the situation

Q. Hoping you wouldn't be discovered, Mr. Foley, I suggest.

A. Not really, no. No. I had every intention. I had discussed it with my accountant.

Q. Let's take it step by step so, Mr. Foley. You received them in May. The purpose you say you wanted the statements was to bring them to your accountant.

A. That's right, Sir.

Q. You received them in May. Did you not bring them to your accountant?

A. Because they were only the statements from '93 to '97.

Q. Okay. And what were you looking for? Up to date statements?

A. I had been looking for statements from '79 on.

Q. '79 to date?

A. Up to the particular date.

Q. Up to date.

A. Or as near as possible.

Q. So can we take it so that, you are offering the reason why you didn't bring them to your accountant in May is because they were incomplete?

A. They were incomplete as well as that

Q. Incomplete because of the time that was involved?

A. No, the main reason I did nothing about it, I was hoping against hope that they were not my statements and furthermore, the accountant had stressed to me he wanted the complete statements from '93 to '97. I still went ahead at a later date with him without the statements, making a full disclosure.

Q. Did you ever give these statements to your accountant?

A. Pardon?

Q. Did you ever give the statements to your accountant?

A. No, I gave them into the Tribunal.

Q. Yes. After the Tribunal had contacted you?

A. That's right.

Q. And when did you take the matter up with your accountant again? Was it after the Tribunal had contacted you?

A. After the Tribunal.

Q. After the Tribunal had contacted you, Mr. Foley.

A. After the Tribunal had contacted me.

Q. So may I suggest to you, Mr. Foley, that the history of how you dealt with these statements does not sit easily with the suggestion that you arranged a meeting to get

statements to bring to your accountant for the purpose of disclosing your offshore situation to the Revenue. It doesn't sit easy with that suggestion, does it, Mr. Foley?

A. Well that is the position. I set up a meeting with my accountant to make a full disclosure to the Revenue Commissioners.

Q. But you didn't do anything about that until after the Tribunal contacted you, isn't that correct?

A. That is correct.

Q. That is after November of 1999?

A. Correct. No, it was actually in November.

Q. Yes, in November.

A. Yeah.

Q. I am not particularly concerned at the end of the day of how you deal with the Revenue, Mr. Foley. What I want to ascertain is the purpose of the meeting in 1998 with Mr. Collery and I am suggesting to you that it could not have been for the purpose of getting statements to take to your accountant. That could not have been the purpose or the sole purpose of the meeting.

A. That is the purpose of the meeting, Mr. Coughlan, and it can be confirmed by my accountant that I had an appointment for that day.

Q. I don't have any difficulty with you having an appointment why your accountant on that day. But you knew, going to that meeting, you knew going to that meeting, from all the evidence you had previously, that your affairs were in

Ansbacher, isn't that right? You knew going to that meeting.

A. To the accountant?

Q. No, to the meeting with Mr. Collery. You knew.

A. In '95? '98?

Q. '98.

A. '98. I wasn't concerned about the position my priority at that meeting was to get statements.

Q. Ah, Mr. Foley, I am asking you about something else. You knew going to the meeting from all the evidence at your disposal after all Mr. Foley, you are a TD representing constituents in this country.

A. That's right.

Q. You have a level of intelligence which is entrusted to you to exercise on their behalf doing public business, isn't that right?

A. That's correct.

Q. You are not a stupid man, isn't that so, Mr. Foley?

A. I hope not.

Q. You are a businessman, isn't that right, Mr. Foley?

A. That's correct.

Q. And you had all of this evidence at your disposal going to that meeting. You knew, Mr. Foley, isn't that right, that your funds were in Ansbacher when you went to that meeting with Mr. Collery in August of 1998?

A. The indications were there that there was Ansbacher.

Q. You were hoping against hope that there was no link between

you and that offshore situation, isn't that correct,

Mr. Foley?

A. Well I knew I had an offshore situation, but I was certainly hoping there was no link with me and Ansbacher.

Q. You were hoping that there was no link. That there was no evidence of a link, isn't that right?

A. Not really, Mr. Coughlan.

Q. So you would have been quite happy then, if you had received the statements and you wouldn't have been shocked when you were handed the Ansbacher Limited thing at the airport, is that right?

A. I would still be shocked if I got them at the airport.

Q. Because you were capable of being found out, isn't that right?

A. That is correct.

Q. You were capable of being found out. That's why you would have been shocked, isn't that right?

A. That is correct.

Q. Now, Mr. Collery has given evidence of the meeting at Dublin Airport and you heard him give that evidence.

A. I did, yeah.

Q. And he has given evidence that at that meeting, the question of statements may or may not have come up. I don't think that there is any great issue between you in respect of that, but he has given evidence that he had mentioned to you that he had seen in the records of Mr. Furze a reference to you in connection with A/A40.

A. The only time Mr. Collery mentioned Mr. Furze to me was in '95.

Q. Is there any specific reason why he wouldn't have mentioned Mr. Furze in 1998? He had already mentioned him in 1995.

A. He had, yeah.

Q. And Mr. Collery has told the Tribunal that he gave you information which would have shown a link between your name and a code in Cayman.

A. That is not so, Sir.

Q. That did not happen?

A. No, certainly not, Sir. And I am conscious I am under oath.

MR. BARNIVILLE: Sorry to interrupt Mr. Coughlan, my recollection is in evidence Mr. Collery stated, ultimately on re-examination by his counsel, that he couldn't confirm the code A/A40 was

MR. COUGHLAN: I accept that. I accept that. But that he had seen a reference to you, leave out the actual code.

A. That is not correct, Sir.

Q. But can I take it when you were dealing with Mr. Collery as of that occasion, you knew Mr. Collery was looking after the affairs of what came to be known as the Ansbacher accounts in Ireland. That's why you were meeting him, to get statements.

A. I knew he'd be looking after Des Traynor's affairs.

Q. And John Furze

A. Well, as John Furze was mentioned.

Q. And John Furze.

A. Yes, that's true.

Q. And could you think of a reason why he wouldn't have mentioned anything he saw?

A. I can't say, the meeting was very short, Sir. When I wasn't getting the statements, I had no further interest.

Q. What do you mean you had no further interest?

A. I had no further interest in talking. I wanted my priority at that meeting was to get statements.

Q. To give to your accountant?

A. To give to my accountant.

Q. Which you never did when you got them?

A. Which I never did, yeah.

Q. Well Mr. Foley, I have to keep at you on this.

A. I am sure

Q. Could that have been the only purpose of the meeting, when you did nothing with statements when you eventually got them?

A. The reason I did nothing with them when I got the statements, they were Ansbacher and I just looked at the heads, didn't even look at the actual cash side, when I saw I just left them there, and put them into a folder and hoping against hope

Q. You went into denial about them, did you?

A. I certainly did. I certainly did.

Q. Because it was now possible that you could be found out?

A. Correct.

Q. And you didn't want to be found out, isn't that right?

A. No, I wanted to make my return to the Revenue Commissioners.

Q. You didn't want to be found out that you were in Ansbacher, isn't that right?

A. That is correct.

Q. And you never wanted to be found out that you were in Ansbacher, isn't that right?

A. That is correct.

Q. And you knew, you knew you were in Ansbacher, isn't that right?

A. There was a doubt there. I was hoping against hope

Q. You knew you were you were in Ansbacher?

A. I don't want to dispute with you now. I want to say I was still hoping against hope that I was not in Ansbacher.

Q. But there was no reasonable basis for that hope, it was denial, wasn't it?

A. Not on that basis, yeah.

Q. It was denial.

A. Yeah.

Q. And you kept that information from everybody, didn't you?

A. I kept that information, yes.

Q. And can I ask you this, Mr. Foley, you knew this Tribunal was inquiring into Ansbacher, isn't that correct?

A. That is correct, yeah.

Q. And prior to November of 1999 before this Tribunal made contact with you, you had all these documents in your possession, isn't that correct?

A. I had, yes.

Q. And I don't think you have any doubt but that these documents are relevant to the workings of this Tribunal, isn't that correct?

A. That's correct.

Q. And I think the Tribunal brought to your attention the fact that your identity was kept concealed from the Tribunal by Mr. Padraig Collery, isn't that correct? You were told that by the Tribunal after November of 1999?

A. When I was called for the Tribunal on the 22nd November, they showed me a statement where I was shown as having in excess of €100,000 and I made a full disclosure.

Q. But you were informed or you knew at that stage how the Tribunal had come into possession in general terms of such information, that it had been concealed from the Tribunal up to then?

A. I had no knowledge that my name was concealed.

Q. As of then you knew, isn't that right?

A. Yeah.

Q. As of then?

A. Yeah. And I made a full disclosure.

Q. I am not saying you didn't, Mr. Foley. I am just saying...

A. Yeah.

Q. And there can be no doubt, can there, particularly looking at the statements you received and furnished to the Tribunal, that the €50,000

A. That's correct I saw that

Q. Which was paid to you by Mr. Collery in 1995 is recorded on those statements.

A. That's correct, Sir.

Q. You know that that is what the records reflect?

A. That is correct, but I didn't have that information until I was making a full disclosure. It was then I looked at the particular statements. I went through there is two transactions actually. There is a double transaction.

There is one for €51,000 and one for €9,800.

Q. And that clearly shows

A. It did, yes.

Q. that transaction taking place.

A. Yes.

Q. And that's out of your Ansbacher account, isn't that right?

A. Correct.

Q. And at least as of May of last year, you had statements in your possession I know you hoped that they didn't make a connection with you but they clearly showed a transaction from which you benefitted and from which you participated in, isn't that correct?

A. That is correct, Sir, but I hadn't gone through the statements at that stage.

Q. And the statements also showed a transaction which took place in 1993, showing the €10,000

A. That's correct, yeah.

Q. withdrawal, which you had obtained in cash from Mr. Traynor?

A. That's correct.

Q. From your Ansbacher account, isn't that right?

A. Correct.

Q. So not only did you have all the information which had accumulated around the time of the McCracken Tribunal, you had obtained statements, and they accurately recorded the transactions which you personally had participated in on those dates, isn't that right?

A. That is correct.

Q. And I think you were furnished with a statement in respect that's the account A/A40. You were furnished with a statement of an account A/A49 which showed that this document and the next document which I just had up showed the proceeds of your deposit account in Guinness & Mahon going into your Ansbacher account, isn't that correct?

A. That is correct.

Q. And you knew from what Mr. Traynor had told you in 1991 that he was putting the proceeds of that deposit account into the investment he had for you, isn't that correct?

A. Correct, yeah.

Q. So there can be no doubt that from all the information you had and from these statements which recorded the

transactions you knew about, the amounts you knew about, that when you received these statements, there was, beyond yea or nay, you were in Ansbacher, isn't that right?

A. That is correct, Sir, but as I said already, I was hoping against hope.

Q. I understand that. I understand that, Mr. Foley. You can understand somebody being stressed, upset, absolutely. But you had been through public business setting up this Tribunal, isn't that right?

A. That's correct.

Q. And all of the time, all of the time, Mr. Foley, you knew you were in Ansbacher, isn't that right? All of the time?

A. Well when I got the statements

Q. Ah but you knew before that, Mr. Foley.

A. As I told you, Mr. Coughlan, I appreciate the fact I am on oath. I was still hoping against hope that I wasn't in Ansbacher.

Q. I know, I understand that, Mr. Foley, and I sympathise and it's perfectly understandable, but what I am saying is all of the evidence to you, as a thinking man, carrying out the public business, could only have driven you to the conclusion that I am in Ansbacher, isn't that right?

A. That is correct. But if I had realised it at that stage, I would have been moving much sooner.

Q. Well the only time anyone moved, Mr. Foley, and it's a matter of concern to this Tribunal, the only time when anyone moved was when this Tribunal found out about it.

It's an issue for this Tribunal as to why your identity was concealed from this Tribunal. Now do you know anything about that?

A. I want to put on the record I never asked anybody to conceal my identity in any way.

Q. You didn't bring it to the attention of the Tribunal yourself, Mr. Foley, did you?

A. No. I made a full disclosure when it was pointed out to me on the 22nd November.

Q. It was the Tribunal went to you.

A. That's correct.

Q. But even yourself, and I understand being stressed, finding it difficult to deal with the situation, would hope against hope, irrationally I might suggest, would you agree with that, irrationally? You would hope against hope but your reason was compelling you to the view I must be there, isn't that right?

A. That is correct.

Q. You nonetheless had documents which could have been of assistance to the Tribunal which had been established by the Oireachtas, isn't that right? Whether you were or were not involved, you still were in possession of documents which could have been of assistance to the Tribunal in its general understanding of the thing, isn't that right?

A. I had the statements.

Q. Yeah.

A. The statements.

Q. Yes, but even from the point of view of hoping that you weren't involved, you still had documents which would have been assistance to the Tribunal in its understanding of events, isn't that right?

A. They were the statements of '99.

Q. And these statements.

A. But they were the statements.

Q. But you also had the earlier statements, you had various pieces of correspondence

A. That's correct.

Q. And it didn't occur to you that you might send them to the Tribunal for its assistance?

A. No, did not, because the earlier statements I had, there was no indication to me that they referred to Ansbacher.

As far as I was concerned, they were Klic Investments.

Q. I know that, Mr. Foley, but you were now compelled to the view, weren't you, that you were?

A. Yeah.

Q. And whilst you, again understanding your stress, and clutching to the straw in relation to the Klic Investment document

A. That's right.

Q. You didn't do anything after you received absolute confirmation and had documents headed Ansbacher?

A. That is true.

Q. And the only other person who had the same information as

yourself from 1995 onwards, that is Mr. Collery, isn't that correct

A. That is correct.

Q. did not bring it to the attention of the Tribunal either, isn't that right, from the evidence you have heard?

A. From the evidence, yes.

Q. And you were the two people here who had all that information, isn't that correct?

A. That is correct. Can I say, Mr. Coughlan

Q. Yes.

A. I did bring that information to the Tribunal when they pointed out to me. I gave them all the information I had.

Q. Oh Mr. Foley, absolutely. I just want to make it very clear, once the Tribunal contacted you.

A. That's right.

Q. You furnished all documents you had, absolutely right, and you cooperated fully with the Tribunal from the time the Tribunal contacted you. Absolutely. I just want to make that very clear in case people are thinking otherwise.

A. Thank you.

Q. But up to that time you hadn't brought the matter

A. No.

Q. Or any documents?

A. No.

Q. And importantly, I think you would agree now what you can see in relation to your particular your affairs, is a complete history from the opening of an account in 1979

right up through all the movements, up through the

Ansbacher accounts, isn't that right?

A. That's right.

Q. One complete picture in respect of one person that the Tribunal has been able to put together, isn't that right?

A. That is correct.

Q. Now, I don't wish to stress you any further in relation to these affairs, Mr. Foley, but again I am conducting the public's business here and I want you to appreciate that this is the only basis on which I ask you these questions, that I think a number of people over the years from the media or of recent times, before the Tribunal became involved in your affairs

A. That is right.

Q. raised questions with you about it?

A. That's right.

Q. And I think you denied involvement?

A. I did, yeah.

Q. Turning to the question of Central Tourist Holdings

MR. BARNIVILLE: I am sorry again, I wonder would the Tribunal perhaps permit Mr. Foley perhaps five minutes, if Mr. Coughlan is proposing to move on to a different area. Just I am conscious

CHAIRMAN: I am conscious of that, Mr. Barniville. How long do you think you are likely to be, Mr. Coughlan? I was just trying to think of it from the witness'

perspective.

MR. COUGHLAN: About a half an hour, or that length of time.

CHAIRMAN: Yes, it may be a little optimistic to seek to conclude today, but perhaps you may take soundings amongst you gentlemen into how much remains. If it were possible without undue stress to Mr. Foley, it may be that he would prefer to conclude his evidence today. We will take five minutes now.

MR. BARNIVILLE: Thank you, Sir.

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

A. Thank you very much for that, Chairman.

MR. COUGHLAN: Thank you, Mr. Foley.

Mr. Foley, I think you know now that before November of 1999, that's just last November, the Tribunal did not have access to any of the documents which related to you.

A. That is correct, Sir.

Q. When you met with Mr. Colley in 1998, and you asked for statements, you knew that statements on the basis of the promise he gave you would be generated about you, isn't that right?

A. I beg your pardon, Sir?

Q. You knew that statements would be generated or furnished,

that's what you expected?

A. Yes, that's right, that they would be furnished, yeah.

Q. And that Mr. Collery must have had documents relating to the Ansbacher accounts, isn't that right?

A. I wanted statements from him, as the representative of Des Traynor, and I wanted to see what the position was with regard to the account, because as I said, I was sick at that stage, on the basis that with stress over the account, I just wanted to get it off my mind.

Q. Now you were, as you say, sick, by that you mean stressed by the whole situation?

A. Stressed, that is correct.

Q. Did you not inquire of Mr. Collery of whether he had furnished any documents to this Tribunal?

A. No, Sir.

Q. In May, when you received the statements and you clearly saw now

A. That's right.

Q. Did you make inquiries of anybody as to whether Mr. Collery had furnished those documents to this Tribunal?

A. No, Sir.

Q. So as far as you are concerned, it's purely coincidental that you didn't bring the documents to the attention of the Tribunal and that Mr. Collery didn't bring them to the attention of the Tribunal, isn't that right?

A. Certainly it is, because I was in the process at the time of trying to do something. I didn't know what was the

best way to approach it and when it was brought to my attention by the Tribunal, I gave them all the documentation, I gave them a full disclosure.

Q. That is absolutely right and I confirm that. But prior to that, I am asking you is it just, as far as you are concerned, a coincidence that you didn't bring the documents to the attention of the Tribunal and Mr. Collery didn't bring them to the attention of the Tribunal?

A. It certainly is coincidental, Sir.

Q. And is it a coincidence that the documents relating to you and the documents containing your name were not brought to the attention of any other investigatory authority in the state?

A. This is the first time I heard it at the Tribunal, when it was discussed at the Tribunal.

Q. If I may turn to the Central Tourist Holdings loan, I think you, along with the late Mr. Clifford, his brother Mr. Clifford and Mr. Byrne were directors of that company?

A. That is correct.

Q. And that related to the running of the business of the Central Hotel or ballroom in Ballybunion?

A. That is correct, Sir.

Q. And there was an amusement centre as well?

A. That's correct.

Q. Now, I think that you have informed the Tribunal that you entered into a business arrangement with your co-directors and invested €5,000. They also invested €5,000 each.

A. That's correct, yeah.

Q. And there were certain dealings in relation to the premises with, I think, another bank that you weren't involved in, isn't that correct, directly in relation to the premises?

A. There was an application for a loan to Guinness & Mahon.

Q. What I am concerned about here is that there was a loan obtained from Guinness & Mahon.

A. That is correct.

Q. And the company applied for that loan?

A. That's correct, Sir.

Q. And I think there was a facility letter granted in respect of that loan?

A. Correct.

Q. Isn't that right? And on the face of the facility letter, the loan appears to have been secured on personal guarantees jointly and severally by the directors, isn't that correct?

A. That is correct.

Q. That the four of you were guaranteeing this loan yourselves?

A. That's right.

Q. And over the initial period of the loan, I think the I think that's the facility letter. There is no need to go into it in great detail. I think that that is the effect of it?

A. That is it.

Q. And the facility letter deals with how the loan should be

drawn down, the repayments and matters the interest to be charged and matters of that nature?

A. That's correct.

Q. And I think in the initial years in respect of that particular loan, the interest was discharged?

A. The interest, yes.

Q. And the principal sum of 70-odd thousand pounds or thereabouts was the balance which was kept on the loan?

A. Correct.

Q. And I think then, coming into the 1980s, because of normal business difficulties, the interest wasn't paid and the loan increased?

A. That's correct.

Q. Now, I think you were present at the Tribunal when you saw various internal memoranda of the credit committee meetings in Guinness & Mahon

A. Correct.

Q. Showing that this loan was suitably secured, so described in the credit committee meetings?

A. That's correct.

Q. And then words like "adequately secured" or "security considered adequate".

A. Correct.

Q. And I think from what you have heard at this Tribunal, you now know that that indicated that the loan was secured by a cash-backed deposit from the offshore businesses operation being conducted by Mr. Traynor, from what you have heard

here?

A. That's right, Sir.

Q. Now, that particular security never appeared on the facility letter, isn't that right?

A. No, that's true.

Q. And you have informed the Tribunal and isn't it correct that you knew nothing about the cash-backed security for that particular loan?

A. That is definite, Mr. Coughlan.

Q. And I think that you have seen from documents which were furnished to you recently by the Tribunal and from what you have seen in evidence at the Tribunal that sorry, first of all, could you confirm that the business reached a stage where you had to sort out the various indebtedness of the business, isn't that correct?

A. That is correct.

Q. And I think you have seen here at the Tribunal and from the documents furnished that the loan had increased to about 135-odd thousand pounds in Guinness & Mahon, isn't that correct?

A. That is correct.

Q. The Central Tourist Holdings loan. And I think it is correct to say that you were now aware that that particular loan was paid off from Guinness Mahon Cayman Trust/College, the predecessor of Ansbacher, isn't that right?

A. That is true.

Q. You have seen that on the document?

A. Can I say at this stage, Mr. Coughlan, I never got that statement when I was getting statements. I never got a statement showing it was cleared because I was getting statements after that showing interest for around 140,000 and I think it went much higher

Q. I know that, Mr. Foley.

A. Sorry

Q. First of all, you didn't get that statement to show the loan was cleared off?

A. I never got that statement.

Q. You didn't know that there was a back-to-back arrangement with the Ansbacher accounts?

A. If I had known that, Sir, I wouldn't have had half the problems that I had, because that was the time I got my heart attack because I understood we would have to be, would have to pay about 25 to €30,000 each in order to pay it off.

Q. And you had been receiving statements?

A. I had been receiving statements.

Q. On that particular loan?

A. Correct.

Q. As a director of the company.

A. As a director.

Q. And it was a matter which was causing you some anxiety?

A. Without a doubt, yeah.

Q. And can I take it that whilst there wouldn't be big formal board meetings of Central Tourist Holdings, on occasions

the directors would meet or they might communicate with each other about the affairs of the company?

A. That's correct.

Q. And did anybody ever inform you as of the date of the statement you see clearing off the loan, that the loan had been cleared off?

A. No, Sir. I remember getting we were hoping to sell the premises in '86 but it wasn't closed I think until '87 and I remember getting a statement for around 140,000 and I actually sent a copy of it to each of the directors. I was very concerned about it. It was double what the original loan was, it had gone to œ70,000 in interest at that stage.

Q. But that you never received this statement?

A. Never received it.

Q. Was that the first

A. That is definite.

Q. And a second point, none of the other directors ever informed you that the loan was cleared off?

A. No, Sir. That was in '85, in actual fact.

Q. In '85?

A. I was still getting statements.

Q. Now, I think this is a point I will just ask you about.

Can I take it that when you received the particular statements, what you were concerned with was Central Tourist Holdings loan account and the amount that was showing in it?

A. Correct.

Q. Can I take it the account number was not something that was of great concern to you?

A. Oh not really, Sir.

Q. Or that you'd pay particular attention to it?

A. No.

Q. And can I take it that there was no resolution of the board of the company, even by people getting together over the telephone, to pay off this loan through the backing deposit

A. No, Sir, that's definite.

Q. Now I think you have seen the documents which show that after this date, September of 1995, when the loan was paid off by using a backing deposit from the Ansbacher accounts, that a current account and a loan account appear to have been opened at Guinness Mahon for Central Tourist Holdings. I think I will just explain this to you. I take it that in the first instance when the loan was obtained, there had to be a decision or a resolution of the directors that we'll get a loan?

A. That is correct.

Q. And the formal documentation about that might have been prepared by your advisers or

A. Mr. Grace, as far as I can remember.

Q. And was that the only occasion that you can remember that such a resolution was passed by the directors?

A. That is correct, Sir.

Q. And can I take it that not only do you not have a recollection, but that there was no resolution passed to open this particular current account or deposit account in October of 1985?

A. No, Sir.

Q. And what happened here, if I could just go through it again just two accounts were opened for Central Tourist Holdings in Guinness & Mahon, Mr. Traynor was still there at that time. One was a loan account in which a loan of œ135,510.68 was debited to the account. There was no resolution of the company to raise those funds?

A. No.

Q. And there was no standing authority given to anybody by the company to do such a thing?

A. From my as a director, there certainly was not.

Q. Yes, absolutely. And then what happened in Guinness & Mahon is this purported loan was transferred into a current account if we just show that now opened at the same time in Guinness & Mahon in the name of Central Tourist Holdings. And then on the 4th November the money was debited to the current account in the name of Central Tourist Holdings and it was credited to the deposit account which had been opened a few days earlier, so that both accounts then stood at zero balance. So in fact, it was a bookkeeping transaction in respect of the same sum of money moving from one account, from a deposit account or a loan account into a current account, back into the loan

account and no interest charged on the loan. Do you understand what happened?

A. I do, yeah.

Q. And I take it that it's your evidence that you knew nothing at all about this?

A. Nothing whatsoever, Sir.

Q. And you can confirm to the Tribunal that there was no such resolution passed by the board of Central Tourist Holdings?

A. No resolution.

Q. Or no informal decision?

A. No informal discussion, no.

Q. And the effect of this was that as of the 31st October 1985, anyone looking at the monitor screen in Guinness & Mahon on a request from the accountants for Central Tourist Holdings, or the auditors to Central Tourist Holdings would have certified quite correctly from what was seen on the screen that there stood an indebtedness on the part of Central Tourist Holdings to Guinness & Mahon of that sum of œ135,510. Do you understand?

A. I do, yes.

Q. And that is what happened. Can I take it you know nothing about that, Mr. Foley?

A. Nothing whatsoever.

Q. Now, the account number on the loan account of this, fictitious loan account is a different number to the loan account which had been the real loan account and which had been paid off. In the first place, can I ask you do you

ever remember receiving that statement or the same in respect of the current account?

A. No, Sir. I would never look at a number. I might as well as

Q. I am not suggesting that one would

A. But I certainly never got that statement.

Q. That statement?

A. No.

Q. Because it would have raised a question in your mind, what is happening here, we have a current account and a loan account?

A. Correct.

Q. Now, you didn't know that the loan had been paid off of course.

A. No, Sir.

Q. But if you had received the statement, you would have seen on this new fictitious loan account that that would have stood at zero balance as well?

A. That's correct.

Q. And you would have asked yourself the question, where is our loan gone?

A. Correct.

Q. Now, we have a letter of request from Messrs Haughey Boland, the letter of request in the first instance. Now, can I ask you in the first instance, were Haughey Boland & Company the company's accountants as far as you can recollect?

A. Yeah.

Q. And it's a letter of request dated 24th November 1985 to Mr. Collery who was the accounts manager or

A. Yeah.

Q. And it's re: Central Tourist Holdings and Haughey Boland are saying "I received from Mr. Traynor two statements relating to the above companies..." you needn't worry about the other company, there is only one, Central Tourist Holdings "...as of the 4th November 1985. I should be obliged if you would kindly let me have an audit confirmation for the balances of each of the companies as of the 31st October 1985 which is both companies' audit date."

Now, can I take it it is a matter that you wouldn't necessarily have known what the audit date for the company was necessarily?

A. It was after the summer season. I think it was around

Q. After the summer season?

A. It was after the summer season.

Q. There was a response from Guinness & Mahon which shows that the balance on the account as of the 31st October 1985 stands at €135,000-odd. Can I take it you never saw that request for that particular confirmation?

A. No.

Q. Now, if you had seen the letter from Guinness & Mahon showing the balance as being around €135,000, can I take it it's not something that would have caused you surprise

because you didn't realise that the loan had been paid off at all?

A. No, I didn't know the loan was paid off.

Q. Now, we have a portion of further statements in respect of a loan account purporting to the Central Tourist Holdings loan account and you continue to receive balances or statements which show the balances going up to 140

A. In excess of 140,000.

Q. In excess of 140, 150 way up.

A. Yeah.

Q. And can I take it whilst this upset you, it wouldn't have surprised you because you didn't know that the loan had been paid off, that is right?

A. I didn't know the loan was paid off.

Q. And can I take it that between 19 I will just ask you this question, apart from the loan which was originally taken out from Guinness & Mahon in 1972, did Central Tourist Holdings get any other loan from Guinness & Mahon?

A. No other loan from Guinness & Mahon.

Q. So that was the only loan?

A. That was the only loan.

Q. So a statement purporting to show that there was a debit balance on the account of up to close on œ150,000, if the loan had been paid off, could not relate to any loan which was raised by Central Tourist Holdings?

A. No, Sir.

Q. And just to complete matters in relation to your own

affairs in your dealings with Central Tourist Holdings, I

think it's correct to say that you personally paid

€5,000

A. That's correct.

Q. Which you believed was going to Guinness & Mahon

A. Going to pay off the creditors.

Q. The creditors?

A. Yeah.

Q. And another sum of €2,700-odd towards the Revenue

Commissioners?

A. Yeah.

Q. And was it your understanding that the other directors were

doing the same?

A. They were doing the same, yeah.

Q. And over and above that then, arising from the balance from

the proceeds of the sale of the premises, is that correct?

A. That's correct, yeah.

Q. Mr. Grace, the solicitor to the company, had opened an

account in Kerry, is that correct?

A. In Listowel. He put in the sale the proceeds of the

sale into the Bank of Ireland into Listowel.

Q. And whatever he had discharged was, appropriately

discharged, there was approximately €47,000-odd left over,

is that correct?

A. I am not sure of the actual figure now, but the sale price

was 110. I think 177 was the total between the ballroom

and the hotel.

Q. But in any event, you then, along with another director,

Mr. Byrne

A. That's right.

Q. Signed a cheque for I think œ37,000-odd. I think it's

A. 42

Q. I beg your pardon, œ42,680.

A. That's right.

Q. And this was made payable to Guinness & Mahon?

A. That's correct.

Q. And it was your understanding that this was to go to

discharge what was outstanding on the loan, is that

correct?

A. Correct.

Q. Now, I think there is no doubt that you would have known

that you were falling short on what was being paid to

Guinness & Mahon, is that right?

A. Correct. I had maintained the whole time there should be

a settlement made with Guinness & Mahon, but we'd the loan

paid twice over.

Q. Over the years, what you had paid, yes?

A. Yeah.

Q. But well, just be fair to yourself there. You hadn't,

because you stopped paying interest at one stage.

A. That is correct, but even up to that time, we had paid

substantial interest.

Q. You paid substantial interest.

A. Yeah.

Q. And I suppose you were concerned about your personal guarantee which was

A. Very concerned.

Q. So that it was your understanding that a settlement was reached with Guinness & Mahon and that this cheque was to clear the debts, is that right?

A. Otherwise it was to go out of the sale, you know

Q. But a settlement was reached?

A. I understood that.

Q. That was your understanding?

A. I understood that.

Q. That you felt relieved of your personal guarantee then?

A. Very much relieved, yeah.

Q. Who conducted the negotiations with Guinness & Mahon in respect of that?

A. I'd say they would have been done through Haughey Boland and Mr. Grace could have been involved. I wasn't sure because I wasn't involved at that stage because late May, early June I went into hospital.

Q. This is in 1987 now?

A. Yeah, I went into hospital.

Q. Well in any event, Guinness & Mahon never came back to you looking for any more money on your personal guarantee?

A. No, no.

Q. I think you can see now, seeing the overall picture, that the creation of this fictitious loan arising out of a current account had the effect of obscuring the fact that

the original had been settled by the taking of a backing deposit from the Ansbacher accounts, isn't that so, you can see that?

A. That's right.

Q. But I had knowledge of that particular

A. No knowledge whatsoever?

A. As a matter of fact in that year, Guinness & Mahon were pressing for payment and I was just sending off, any time I got a statement, I sent it off to Haughey Boland and I went into hospital towards the end of May and I was there for most of June and I didn't become involved again until sometime in August.

Q. But this is purely a technical matter and it's just something whereby very technically you were involved as a holder of public office and I just want to explain it to you, it's in a different category to your own money, if I could just explain this.

A. Correct.

Q. That sorry, it's Term of Reference (c), but it's a different emphasis. It's that you received a payment or a benefit out of the Ansbacher accounts and I will just explain, if I may, to you Mr. Foley. As far as you were concerned, a settlement had been reached with Guinness & Mahon, isn't that right?

A. Correct.

Q. And you were jointly and severally liable in respect of the personal guarantee on the loan?

A. Correct.

Q. So as far as Guinness & Mahon were concerned, they could have called in the whole amount against you or against any of the other directors?

A. They could, yeah.

Q. And this particular payment, and I don't know if the €20,000-odd which had been collected from the directors, that is the €5,000 each for the creditors, went to Guinness & Mahon or not, I don't know if it did, but that in any event, as far as you were concerned, there would have been a balance outstanding on the loan account, isn't that right?

A. There would, yeah.

Q. And that was not called in by Guinness & Mahon?

A. No.

Q. Because in fact the loan had been settled out of monies from Ansbacher, isn't that right?

A. Yes, you said that to me.

Q. Such as technically you received the benefit of that. I know you may not have known at the time

A. That's correct, yeah.

Q. Now, I know that you were stressed and upset about this and you weren't in the best of health at the time, Mr. Foley.

A. That's right.

Q. And you say that Haughey Boland and/or Mr. Grace conducted the negotiations.

A. That's right.

Q. I take it nobody ever told you of the outcome of it?

A. No, Sir.

Q. And can I take it that you were not the director who was dealing with Messrs Haughey Boland and/or Mr. Grace in respect of the affairs of Central Tourist Holdings?

A. All my dealings were if I got statements, I returned them to Haughey Boland and up to about April, I'd say, of '97, I was involved with Mr. Grace and Haughey Boland, but from '97 onwards, I didn't come back into the equation until August.

Q. 1987. You were saying '97.

A. '87, that's right.

Q. That's what I am trying to ascertain I don't want you to mention the name of the other director who may have been dealing with the affairs. Can I ask you, were you the director who was mainly involved in the running of the company?

A. I was from about '76. '76 onwards, yeah, with the late Mr. Billy Clifford.

Q. And did Haughey Boland or Mr. Grace or somebody doing the deal with Guinness & Mahon ever come back to you and say "It's all right now"?

A. No, Sir, when this was brought to my attention on Monday by my solicitor, I gave him a letter of authority to go to the Law Society and get the file on the sale.

Q. That's right.

A. Just to see what the position was.

Q. Yes, that is true, and your solicitor very promptly got the documents relating to the sale?

A. Correct, and instructed them to send a copy of the papers themselves to the Tribunal.

Q. What I am trying to establish is a fact here, nobody came back to you, having negotiated with Guinness & Mahon

A. No, Sir.

Q. To say it's all right about the personal guarantee.

A. No, no.

Q. And we can see that Guinness & Mahon didn't resort to your deposit account which you opened in '87 or anything like that?

A. No.

Q. And Mr. Traynor didn't resort to your offshore account

A. No, Sir.

Q. to satisfy that.

A. No.

Q. Thank you, Mr. Foley.

CHAIRMAN: Well I am reluctant at four o'clock after the very long day that it's been for Mr. Foley to seek to conclude what remaining questions may still be left. As regards Mr. Foley, Mr. Foley, undoubtedly your evidence will end on Tuesday morning. The procedure that we have adopted in this Tribunal is that the vast majority of questioning is done by Tribunal counsel in your case, Mr. Coughlan and the practice has been that only such left over questions as may pertain to the interests of

other persons connected with the Tribunal will be asked and whilst it may take a little time, it will be nothing like the time that has been involved in your examination to date.

However, because it's four o'clock, you have been in the witness-box all day, I think it's preferable that we defer that for your final period of evidence until half past ten on Tuesday morning.

A. Thank you, Chairman.

CHAIRMAN: Thank you very much.

A. Thank you, Mr. Coughlan.

THE TRIBUNAL THEN ADJOURNED UNTIL TUESDAY, 8TH FEBRUARY, 2000 AT 10:30AM.