

THE TRIBUNAL RESUMED AS FOLLOWS ON FRIDAY, 29TH JANUARY,

1999 AT 10:30AM:

MR. COUGHLAN: May it please you, Sir. Ms. Sandra

Kells.

SANDRA KELLS, HAVING BEEN SWORN, WAS EXAMINED AS FOLLOWS BY

MR. COUGHLAN:

MR. COUGHLAN: Ms. Kells, I wonder if you could speak into

the microphone please. Ms. Kells, I think you are a

certified public accountant?

A. Yes.

Q. And you commenced employment with Guinness & Mahon Ireland

Limited on the 16th January, 1989 as a management

accountant?

A. That's correct, yes.

Q. And I think at that time Guinness & Mahon's office were

located at Trinity Street?

A. Yes, they were.

Q. The offices have since moved to Earlsfort Terrace?

A. That's correct, yes.

Q. I think you were appointed financial controller in 1992?

A. Yes.

Q. And you became company secretary of the bank in 1995?

A. That is correct.

Q. I think you were appointed financial director in January,

1997?

A. Yes.

Q. And I think in the various capacities you have had in the bank, you are fully conversant with the books and records of the bank?

A. I am, yes.

Q. I think Guinness & Mahon Limited was established as a merchant bank in 1836?

A. That is correct, yes.

Q. It was established by John Ross Mahon and Robert Guinness?

A. Yes.

Q. I think it initially started business as a land agency and subsequently began lending money and providing banking services?

A. That's correct, yes.

Q. In 1873, it established a sub office in London, is that correct?

A. Yes.

Q. And by 1923, the sub office became the headquarters of the bank?

A. That's correct, yes.

Q. I think in 1966, Guinness & Mahon Limited became a wholly-owned subsidiary of Guinness Mahon & Company?

A. That is correct, yes.

Q. The Guinness Mahon Limited was the bank which carried on the banking business in this jurisdiction in the relevant periods?

A. Yes, it did.

Q. I think in November, 1994, after being acquired by Irish Permanent plc, its name of changed to Guinness & Mahon Ireland Limited?

A. That's correct, yes.

Q. I think within Guinness & Mahon Ireland Limited, you distinguished between the two banks by referring to Guinness Mahon & Company in London as GM and Co.

A. Yes.

Q. And the Dublin bank as G&M?

A. That's correct, yes.

Q. I think since August, 1994, GM and Co., that's the London bank, has had no interest in Guinness & Mahon, the Dublin bank?

A. It hasn't, no.

Q. I think for ease during the remainder of your evidence, I would intend referring to Guinness & Mahon Ireland Limited just as the Dublin bank and to Guinness Mahon & Company London as the London bank.

A. Okay.

Q. Is it correct that the late Mr. Desmond Traynor was appointed a director of the Dublin bank on the 11th December, 1969?

A. Yes, he was.

Q. I think he was one of four managing directors, is that correct?

A. Yes.

Q. On the 13th May, 1996, is it correct that he was appointed

the deputy chairman?

A. 1976.

Q. Sorry, 1976.

A. Yes, he was appointed deputy chairman.

Q. And is it correct that he remained in the position until he resigned from the bank's employment and from the board on the 2nd May, 1986?

A. Yes, he did.

Q. I think it's correct to say that thereafter he was appointed chairman of Cement Roadstone Holdings Limited?

A. To the best of my knowledge, yes he was.

Q. And I think also to the best of your knowledge he continued to hold that position until his death on the 11th May, 1994?

A. Yes, I believe so.

Q. Is it correct that during his years with Guinness & Mahon, a Ms. Joan Williams was his secretary?

A. Yes, Joan was his secretary and personal assistant.

Q. And personal assistant?

A. Yes.

Q. And is it correct that when Mr. Traynor left Guinness & Mahon, the Dublin bank, Ms. Williams went with him?

A. She did, yes, to the best of my knowledge.

Q. And again, to the best of your knowledge, did she continue to be his secretary during his years with Cement Roadstone?

A. I believe so.

Q. I think in 1969, the Dublin bank set up a small investment

company in the Cayman Islands which was known as Guinness Mahon Cayman Trust Limited?

A. It did, yes.

Q. I think for ease of reference again, I will refer to that bank and all future movements in that bank just as the Cayman bank.

A. Okay.

Q. Is it correct that the Cayman bank initially operated as a small investment company?

A. It did initially, yes.

Q. And I think it's correct to say that it subsequently applied to the Cayman authorities to set up a banking business with a B licence?

A. It did, yes.

Q. I think in 1972, with a change in the sterling area, it applied for and was granted an A licence to commence operations as a Class A licensed bank and trust management company?

A. It did, yes.

Q. I think the Cayman bank commenced business with its new banking licence as of the 1st January, 1974?

A. Yes, it did.

CHAIRMAN: Just a very slight matter, Mr. Coughlan, just for ease of the transcript. Was the initial secondary banking status a B or a D licence?

A. A B Licence.

CHAIRMAN: Merely a matter for the transcript.

MR. COUGHLAN: I think Mr. Traynor had executive responsibility for the Cayman bank's activities?

A. He did, yes.

Q. I think he was a director of the Cayman bank and became chairman in 1984?

A. Yes, that is correct.

Q. And is it your belief that he remained in that position until his death in 1994?

A. Yes, as far as we know.

Q. I think that a Mr. John Collins and the late Mr. John Furze who were formerly employed by the Bank of Nova Scotia in the Cayman Islands were appointed as joint managing directors of the Cayman bank as of January, 1974?

A. That is correct, yes.

Q. And as far as Guinness & Mahon, the Dublin bank, were concerned, is it correct that they were the three people who were chiefly in charge of operating the Cayman bank?

A. Yes, they were at that point in time.

Q. I think in 1984, there was a reorganisation of the structure of the group whereby the Cayman bank was sold to the London bank and became a wholly-owned subsidiary of the London bank?

A. That is correct.

Q. I think Mr. Traynor, nonetheless, continued as the chairman of the Cayman bank?

A. He did, he continued in that role.

Q. And is it your understanding that in May, 1988, the Cayman bank was sold to a consortium which included the late Mr. Traynor, the late Mr. Furze, and Mr. Collins?

A. As far as the Dublin office was concerned, yes, that is our understanding.

Q. Is it also your understanding that they, in turn, sold a 75 percent interest to Henry Ansbacher & Company, a London bank, which is a member of the Ansbacher group?

A. We believe so, yes.

Q. And is it so that the Cayman bank was then changed from Guinness Mahon Cayman Trust to Ansbacher Caymen Limited?

A. Yes, it was.

Q. I think from the mid-1970s, the Cayman bank began to place deposits with the Dublin bank?

A. It did, yes.

Q. And is it your understanding that by 1989, these deposits had grown to approximately €38 million in the Dublin bank?

A. 38 Irish pounds, €38 million Irish equivalent.

Q. €38 million Irish pounds in the Dublin bank?

A. Yes.

Q. I think initially the deposits in the name of Guinness Mahon Cayman Trust but in the late 1980 they were in the name of Ansbacher Cayman Limited?

A. Yes, the mandates were changed to Ansbacher Caymen Limited.

Q. Is it correct that these deposits were held in a number of different currencies but were primarily in sterling in US dollars?

A. Yes, that is correct.

Q. And is it correct that during the time that Mr. Traynor was employed as deputy chairman of the Dublin bank, he appears to have been primarily responsible for dealings with these deposits as he had executive responsibility for the Cayman operation?

A. Yes, that is correct.

Q. And is it correct to say that during those years, he was also assisted by a Mr. Padraig Collery who joined the Dublin bank in 1974?

A. Yes, he was assisted.

Q. And is it your understanding that after Mr. Traynor resigned from the bank, Mr. Collery assumed responsibility for the operation of those accounts in the Dublin bank?

A. Padraig Collery would have continued to work and provide similar duties as he had previous to Mr. Traynor's resignation in relation to those deposits.

Q. Is it your understanding that Mr. Collery appears to have kept records of the deposits underlying the amalgamated funds which were held by Guinness & Mahon on behalf of the Cayman bank?

A. We believe so, yes.

Q. I think these records have been referred to as the memorandum accounts but this was not an expression which was used by the Dublin bank?

A. No, it wasn't, but they were referred to as the memorandum accounts.

Q. I think it's correct that it appears from the report of the Tribunal of Inquiry (Dunnes Payments) the McCracken Tribunal that these accounts would have shown the credit balances of each of the customers of the Cayman bank whose monies were held within the amalgamated deposits in the Dublin bank?

A. It appears so, based on the report, yes.

Q. Is it correct that the memorandum accounts would also have shown transactions across the balances of the individual customers including debit and credit transactions and the application of interest?

A. Again it appears so based on the report, yes.

Q. Is it correct that these records which were being kept by Mr. Collery did not form part of the books and records of the Dublin bank?

A. No, they were not the records of Guinness & Mahon.

Q. And is it correct that during Mr. Traynor's time with the Dublin bank and afterwards, he was authorised to give instructions in relation to the Cayman deposits?

A. Yes, he was, based on the mandates the bank had, he was authorised to give instructions.

Q. Is it your belief that the position is best summarised in the internal audit report prepared by the Dublin bank in March 1989?

A. Yes, I think it is.

Q. And I think you would like to quote from that audit report, I will lead you through it, if you wish me.

A. Okay, that's fine.

Q. Does that audit report state, "Ansbacher Limited, a company based in Grand Cayman, has deposited by way of call and fixed deposits, amounts equivalent to IR €38 million with the bank (Ansbacher deposits). These deposits equate to funds lodged on offshore call and fixed deposit accounts with Ansbacher Limited (customer deposit) by Dublin-based customers. The ledger accounting records of the customer deposits are maintained by the bank on a "bureau system" which shares the same hardware as, but is totally independent of the IBIS/38 system of G&M Dublin. Thus, the Ansbacher deposits held on the bank's computer system are represented by the customer deposits held on the bureau system. The bureau system is operated and controlled solely on behalf of Ansbacher by the associate director operations (DPC)" who do you believe that refers to?

A. Pdraig Collery.

Q. "And no other senior official of the bank had access to the system. Customer names are not held on that system but each deposit is identified by a code. We understand that DPC is aware of their names.

"DPC deals directly with the customers or their agents.

He negotiates call fixed deposit interest rates with them. He also negotiates on behalf of the Ansbacher Limited with G&M dealers, the rates payable on the Ansbacher deposits, ensuring that the total interest

received by Ansbacher Limited agrees with the total interest paid on the customer deposits.

"If the totals do not agree, adjusting entries are passed in the bank's books by DPC. We understand that Ansbacher Limited is remunerated by way of a fee of 18 percent per annum, calculated on the total deposit although we have not seen any legal documentation to this effect.

"DPC also receives and processes the payment instructions in respect of customer deposits. The payments are in fact made from the Ansbacher deposits held in the bank's books. The corresponding bookkeeping entries debiting customer accounts, which are technically offshore, are then made on the bureau system, thus maintaining the equation of Ansbacher deposits with the customer deposits.

"In practice (but not officially) therefore, DPC acts as a Dublin-based agent for Ansbacher Limited insofar as the manager of the customer and Ansbacher deposit is concerned, although he is employed full-time by the bank.

"All transactions relating to these deposits are initiated and processed by DPC. In addition to negotiating with both the parties to the transactions, he raises accounting entries and prepares input vouchers, deed slips etc., for both the parties, G&M and the customers of Ansbacher Limited."

Is that the quotation from the internal audit report that

you wish to refer to?

A. Yes, it is.

Q. Sorry, just been drawn to my attention, just the correction of the transcript, where I have said, "In practice (but not officially) therefore, DPC as a Dublin-based agent for Ansbacher Limited insofar as the manager of the customer..." that should read 'management'. I think altogether in the Ansbacher accounts, it appears from the bank records that a number accounts were also held in the name controlled by the late Mr. Traynor?

A. Yes, they were.

Q. These were accounts either in his own name, the name of Amiens Investments Limited, Amiens Securities Limited, Kentford Securities Limited, or Montbrook Limited?

A. Yes, correct.

Q. And I think the persons authorised to sign on behalf of Amiens Investments Limited and Amiens Securities Limited were Mr. Traynor and Ms. Williams?

A. That's correct, yes.

Q. I think in the case of Kentford Securities Limited, which was also a company controlled and operated by Mr. Traynor, Mr. Traynor and Ms. Williams were also authorised signatories on those accounts?

A. And Mr. Collery.

Q. And Mr. Collery?

A. Yes.

Q. Do the bank books and records show that the accounts date

from the mid-1970s, to as late as 1994?

A. They do, yes.

Q. And do the records also show that they appear to have been opened and active for periods of time and then closed?

A. Yes, that's correct.

Q. Do the records show that all the accounts were Irish currency accounts and none were held in foreign currencies?

A. Yes, they were all in Irish accounts.

Q. And do the records show that in certain instances, very substantial sums were lodged to and drawn from these accounts?

A. Yes, they were.

Q. Do the records also show that lodgements were sometimes lodgements of cheques but that they were frequently cash lodgements?

A. They were more cheque lodgements than they were cash lodgements but they were cash lodgements, yes.

Q. Now, do the records show that in December, 1987, Amiens Investments Limited applied for an overdraft facility for the sum of €100,000 for a period of 30 days?

A. Yes, there was a credit application.

Q. And do the records also show that this request was also approved on the 2nd December 1987 in a draft for €105,000 was drawn on Amiens Investments Limited and debited to its account?

A. Yes, the draft was drawn on the 2nd December, and it was debited to an Amiens account, yes.

Q. And do the records show it was made payable to the Agricultural Credit Corporation and are you aware from the report of the Tribunal of Inquiry (Dunnes Payments), the McCracken Tribunal, that it was this draft which was lodged with the Agricultural Credit Corporation to clear a loan to Mr. Charles Haughey?

A. Yes, I am aware, based on the report.

Q. And do the records show that on the 15th December, 1987 the account of Amiens Investments Limited was credited with an IR €204,055.87 from the sundry sub account of Ansbacher Caymen Limited which was the Irish pound equivalent of sterling €182,630?

A. Yes, it does.

Q. And are you aware from the McCracken Tribunal Report that this was the proceeds of the cheque of sterling €182,630 issued by Dunnes Stores (Bangor) Limited on the instructions of Mr. Bernard Dunne?

A. Yes, I am.

Q. I now wish to turn, Ms. Kells, to Tripleplan. Could I refer you to an account number 28500/01/50 which subsequently became account number 03356000, which was a resident current account in your bank?

A. Yes, it was.

Q. Can you inform the Tribunal whose resident account it was and how the numbering in relation to the account changed?

A. Okay. It was Mr. Charles J Haughey's resident current account and it was opened in July or we can trace back as

far as July, 1976 and it the account number on it then was 2801/0150. The bank upgraded its computer system in 1983 and the account numbering system was changed and the current account for Mr. Haughey was given a new number of 03356000.

Q. You say that you can trace records, you can trace this account back as far as July 1976?

A. Yes, we can.

Q. Did the account ever close?

A. The account closed in 1987.

Q. Can you say specifically when?

A. It closed on the 9th June, 1987.

Q. Can you say what was the position in relation to that account as of the 28th May, 1987?

A. Yes. On the 28th May this account had a debit balance of €261,824.96.

Q. I think, is that it as showing on the monitor?

A. Yes, that is the closing that is the closing statement for that resident current account.

Q. Does that debit balance mean it was overdrawn?

A. Yes, it was a loan.

Q. Now on the 29th May, was there any transactions in relation to that account?

A. Yes, there were two transactions on the account. Interest for the relevant period in the sum of €21,055.77, was applied to the account bringing the debit balance to €282,880.73. On the same day, the sum of €285,000 was

lodged to the account clearing the debit balance and leaving a small credit balance, as you can see there, for œ2,119.27 and this credit balance was drawn on the 9th June, 1987 and the account closed.

Q. I think there were also some other resident accounts which are not relevant to the issue that we are dealing with at the moment, so I would ask you to move on. I think you have carried out an exercise and can express a view about the closing of that account and the clearing of the debit balance.

A. Yes, I have.

Q. And this will involve us dealing with a large number of specific identified documents now.

A. Yes, it will.

Q. What is that document Ms. Kells?

A. That is a statement of our account with our sterling party, sterling counter party in London. Our sterling counter party at that stage was our parent, Guinness Mahon and Co. Limited, you can see that on the name. That is the sterling account and that it is a nostro account. This is an account which would have been used by the Dublin bank principally for the receipt or transfer of sterling monies. It would have been used for receipt of monies on behalf of clients or for the bank or for the payment of monies on behalf of clients or, again, the bank.

Q. And was does it show for the 28th May, 1987 I suppose we should explain, there are many other entries which are

A. Absolutely. This would be an quite extensively used account. On the 28th May, there is a debit to that account of €282,495. Now, that would reflect a receipt of funds into our nostro, the Dublin bank's nostro account in London, so there would have been a credit on our nostro statement for our account in London and we would have passed

Q. We have to explain this to the public.

A. Okay.

Q. You received, your nostro account in London would have received €282,495, isn't that correct?

A. Yes, that is correct.

Q. Sorry, if you just take it slowly.

A. Okay.

Q. Now, if you receive money in your nostro account in London, what other paper transaction is then created?

A. There is a credit to our London account, so to keep the two nostro accounts in sync, Dublin would pass a debit to our nostro account in Dublin and there would be a credit to another customer's account in the Dublin records and this would ensure that the Dublin statements of its account with London and the London statement of Dublin's account would always reconcile.

Q. Does that mean that STG €282,495 came into Guinness and Mahon Dublin on the 28th May, 1987 from Guinness & Mahon and Co. London?

A. Yes, it did.

Q. Now, I just want to put up for the moment this is the original document or a photocopy or microfiche copy of the original document and we are now going to put up a reconstituted document for clarity.

A. Okay.

Q. Can you explain what this document is, which I call document number 2?

A. This is a daily input log which we record all transactions recorded on Guinness & Mahon's computer system on a daily basis. And this is dated is there a date on it? Well I know from the date of the transaction, it's the 28th May.

Q. It's the 28th May?

A. Yes.

Q. And I think if you look at the right-hand side of the document, you will see the date is the 28th May, 1987?

A. That's correct, yes.

Q. And what does that show?

A. That shows the entries which were passed in Dublin's books, in the Dublin bank's books recording the receipt of the sterling funds, the £282,495, which we saw on the previous statement. And it records the debit to 03274004, which is the London nostro account which is the previous debit we saw. It also records a debit of five pounds which is a special presentation bank charge and that entry was passed across account number 03154602 and it also records a credit being processed across account 03154297 and you will notice the descriptions beside each of the transactions, special

presentation lodgement, etc.

Q. Now, the five pounds which is debited to the account 03154602, is that correct?

A. Yes.

Q. What account is that?

A. That is an Ansbacher account, 03154, was the or else it was known in our books at that stage, Guinness Mahon Cayman Trust but for ease of clarity we are going to refer to it today as the Cayman bank and it records the five pounds being actually debited to the Ansbacher general account. This was a sterling account which was in Dublin's books. It was a general account and there were a large volume of transactions processed across this account on a daily basis.

Q. The 602 at the end indicates that this was the general?

A. We refer to it internally as the 602 account.

Q. What is the significance of the five pounds debit?

A. The significance of the five pounds debit is that with the description beside it, charge re: special presentation, means that there was obviously a charge applied by a bank for express clearance of this cheque, special presentation applies to a cheque and it obviously was a five pounds charge applied for a bank for express clearing the cheque.

Q. And the bottom figure then, €282,500, what does that show?

A. It signifies that is the balancing entry in those series of entries. When entries were being entered to the bank's computer system, they had to balance. So the €282,500

credit shows the monies being lodged to 03154297, which again is an Ansbacher account. It was called the sundry sub company account and it shows, it's the last entries in those series of transactions relating to that amount under that deal number.

Q. So the œ282,495 and the œ282,500 are the same transaction and are indicated by the debiting of œ282,500 or crediting?

A. The crediting of the 282 yes.

Q. And just to be clear about this, is it correct that the five pounds special clearance charge is in respect of a cheque for œ282,500?

A. Yes, it is. It is all part of the one deal, so it is definitely related.

Q. And I think, is it correct that there is the same dealing number for them all?

A. Yes, that's why we know the charge is related to the receipt of funds into London of œ282,495 because it is recorded under the one deal number on the one transaction.

Q. So does that document, document number 2 mean that sterling œ282,495 which came in was the proceeds of a cheque for sterling œ282,500?

A. We believe so, yes.

Q. And that sterling five pounds which was deducted as a special clearance charge was made up from Ansbacher account 03154602?

A. Yes, the charge was taken from that account.

Q. Now, could we have document number 3 please. What is document number 3, Ms. Kells?

A. Again, the clarity unfortunately from the microfiche is not very good but it is a Guinness & Mahon production of a statement for an account which we previously referred to, 03154297 and the account name is Guinness Mahon Cayman Trust Limited re: sundry sub company account. It's a sterling account. The statement actually shows the lodgement we referred to on the previous document. It shows the lodgement or the credit of £282,500 to this account. It also, on the same day, being the 28th May, 1987, shows a debit for £282,500 with the description drawn. That would mean that the money was lodged and withdrawn from, what we would internally refer to as its 297 account on the same day.

Q. So would it be correct to say that document number 3 means, that the sterling £282,500 was lodged to and withdrawn from Ansbacher account 03154297?

A. Yes.

Q. That is the full value of the cheque was given?

A. Yes.

Q. Now, could we have document number 4 please. That is the original as reconstituted from microfiche and I think that we have another document which shows it in clearer detail, which has been made up from that. Now, what does document number 4 show?

A. Document number 4 refers to the debit which we have just previously seen on the Ansbacher sundry sub company account 03154297. It shows the debit entry there, which is the first entry under the deal number 4059, and it also shows a credit which is moving the monies from the 297 account to the Ansbacher general, or 602 account, 03154602 and you see the credit is processed there for the 28th May, 1987 and the description used with the entry is per advice.

Q. And is that the same or Ansbacher account from which the sum of sterling five pounds was withdrawn?

A. It is, yes, it's the general account again.

Q. And again the date is shown as the 28th May, 1987?

A. Yes, that is correct.

Q. Document number 5, please. What is document number 5?

A. Again, this is a statement produced for Guinness Mahon Cayman Trust and it's the general account

Q. The 602 account?

A. The 602 account, yes. The statement is dated 19th June, but it records transactions dated 28th May and the 29th May. The transactions displayed record the special presentation charge of five pounds which we saw at the commencement

Q. In document number 2.

A. Exactly. So that's the special presentation charge which was deducted by a bank. It also shows the receipt of the funds from the 297 account which we saw on the previous document, you can see the credit there of 282,500.

282,500, the receipt of funds into the 602 account under the description per advice. It also records two further transaction

Q. Dated 29th?

A. 29th May, dated 29th May. They have got a description exchange Guinness Mahon Cayman Trust, which would indicate they were exchange deals which the bank, being Guinness & Mahon, Dublin, performed on behalf of the Cayman bank.

And the sum of those two transactions equates to the lodgement the previous day of £282,500.

Q. I think what the document shows is two sums, 260,000 and 22,500, split into two?

A. Yes, exactly.

Q. Could we have document number 6 please. I think this is a copy of a Guinness & Mahon foreign exchange dealing ticket, is that correct?

A. Yes, it is.

Q. And we have this reconstituted as well.

A. Okay.

Q. But I think it's correct to say that dealing tickets were issued for every foreign exchange transaction processed by the bank?

A. They were, yes.

Q. And what does this ticket record?

A. This ticket records that on the 27th May, 1987 a foreign exchange deal was transacted by the bank on behalf of Guinness Mahon Cayman Trust, the Cayman bank, whereby we

converted the bank or Dublin bank converted €260,000 sterling into 284,495.02 Irish. It was completed at the exchange rate of .9139, and you can see that the paying agent is 03154602, which is the previous account we looked at and where we saw exchange Guinness Mahon Cayman Trust.

You will also see that the details are ref: PC and this would refer to Padraig Collery and his involvement in the transaction and your receiving agent is an internal Guinness & Mahon foreign exchange dealing account, would have been counter party or the Irish pounds would have been first processed into FX dealing sundry account. You will also note that the

Q. When was value given?

A. The validate was 29th May, so while the transaction was transacted on the 27th May, it was valued the 29th May which would be normal for a foreign exchange transaction.

Q. Well, we know from the paper trail so far that the cheque, value was given for the cheque on the 28th May, coming out of London, isn't that correct?

A. That is correct, yes.

Q. And we can see from this that value was given in relation to this transaction on the 29th May?

A. That is correct, yes.

Q. The fact that the transaction, this conversion transaction occurred on the 27th May, would that indicate anything to you?

A. It would indicate that somebody knew the money was coming,

so somebody knew in advance of the actual receipt of the funds into Dublin that the money was expected.

Q. So does document number 6 mean that STG €260,000 was converted into Irish, €284,495?

A. And 2 pence.

Q. And 2 pence?

A. Yes.

Q. Document number 7. I think this is a copy of another Guinness & Mahon foreign exchange dealing ticket which records the conversion of STG €22,500 to Irish pounds, yielding €24,725.27?

A. Yes, it is.

Q. And what records are recorded on the dealing ticket?

A. This time the deal was

Q. Sorry, I think we are a reconstituted

A. Alright, okay. This time you can see the contract date on the top right-hand corner as the 28th May, '87 with a validate of the 29th May, which is the next day. It records again the conversion as you said of the STG €22,500 into IR €24,725.27 at a conversion rate of .91. Again, it records the paying agent or the party who was selling the sterling as being Ansbacher general account 03154602. The details and reference PC, which again refers to an involvement of Padraig Collery in the transaction and the receiving agent is the internal foreign exchange dealing account of Guinness & Mahon, 90065018.

Q. So this document means that the sterling €22,500 was

converted into Irish €24,725.27 and the transaction or the person giving the instruction for the transaction was PC?

A. Yes, we believe so.

Q. Now, from those two foreign exchange dealing tickets, can you say what was the total Irish equivalent of the €282,500 sterling?

A. The conversion, the converted amount, the total of the two was €309,220.29, the Irish pound equivalent of those two foreign exchange deals.

Q. 309,220.29?

A. Yes, that is correct.

Q. Now, there are three pages which are the statement of account 90065018, which I think is your bank's foreign exchange dealing Irish pounds.

A. Yes, it is an internal account over which we would have processed foreign exchange deals.

Q. And I think it's into this account that the two Irish pound sums were lodged?

A. Yes, on the 29th May, the two Irish pound equivalents were lodged the two sterling equivalents being the Irish pound sums were credited to this account.

Q. And we have three pages and could you indicate in which order you would like those taken? We refer to them as document number 8.

A. Okay. Page number 4 is probably the one to put up first. Okay. This is the statement. It is as you can see, it's a foreign exchange sundry dealing account.

It is an internal account to the bank. This statement is dated 29th May, 1987 and there would have been quite a lot of transactions processing across this account, but you can see there two credits under the 29th May, showing the Irish pound amounts of the sterling deals, the €24,725.27 pence and €284,495.02. And they were credited to the foreign exchange dealing account.

Q. So which is the next document of these documents I wish to refer to?

A. You can choose.

Q. We will take number 3 so.

A. This would have been the internal account the internal account would have been the account over which we processed debits and credit. So if you had a credit you had to have a corresponding debit. So this is the debit relating to the previous credit and this shows that on the same day, 29th May and this is actually page number 3, on 29th May, the €284,495.02 was being debited to the account. The description there is reversed deal, which is not strictly correct, and I think we will refer to it on a further document that is coming up in due course.

Q. I think this shows that the total amount of the funds were being credited and debited in an internal

A. This will be, the next document we will produce will result in the balance on this internal dealing account being zero.

Q. I think if we put up document number 9 so please.

A. That is the that is the other

Q. That's the other

A. Debit being processed.

Q. That's the other credit and it also shows?

A. Reverse deal again and, again, it's dated 29th May and this time we are looking at page number 2 of the statement for the internal foreign exchange dealing account. That gives the net, as I said, the debits and credits equal, so there is nothing outstanding in regard to those transactions on that account.

Q. I think we now go to document number 9.

A. Yes.

Q. This is the microfiche copy and now we have the document is reconstituted. What does that show?

A. It's further back up again to the foreign exchange deal being transacted and it shows that it was dealt on the 28th and valued the 29th May. It shows the Irish pound equivalent of it and if you look in the far left-hand side, you will see the foreign exchange account number again, the internal foreign exchange account number 90065018 and this records the debit and the credit, again going across the internal foreign exchange account and again there is the reverse deal description there which I think we will refer to later but it's not strictly correct, to the essence of the transaction that was actually being processed.

Q. I think there is a second page of this document as well?

A. Yes, the first one only refers to the 24,525. The second

page refers to the 284,495 and again you can see the account number 90065018 and reverse deal exchange Guinness Mahon. It's just the continued audit trail of the transaction, converting the sterling to Irish.

Q. This is the case of documents 8 and 9 are the series of documents referred to as 8 and 9, means that both of the Irish pound sums were lodged to and withdrawn from an internal Guinness & Mahon account.

A. That is correct, yes.

Q. Now, document number 10. What's document number 10?

A. Okay. Document number 10 is the production of a statement for Amiens SL number 1 account and it is a resident current account, account number 10407014. The statement is dated 28th May, 1987 and on that statement, you will actually see the lodgement of 24,725.27, i.e. the credit to that account.

Q. Yes. The next page of that then is the same account, the Amiens account?

A. It's the same account. It's the next statement, the last statement was statement number 33, this is statement number 34. Again it's the same account and it shows a lodgement of 284,495.02 to that account on the 29th May. I don't know if you want to refer to the previous one again, just the validate on it?

Q. Yes, please, if you wish, we will look at the previous portion of that statement.

A. You will see that the validate on that statement is the

28th May, which you will recall from foreign exchange deals on the far left-hand side is the date. You will recall from the foreign exchange deals that the 22,500 was converted to this equivalent value, 29th May. So this account actually received the lodgement of fund one day ahead of the actual Irish proceeds being received.

Q. So technically Guinness & Mahon were carrying out

A. For the day.

Q. Now, there are again, what would that indicate to you or would you have a same view that it indicated that somebody knew that money was arriving?

A. Oh yes, yes.

Q. So those that document and the document which was just up previously showing 24,725.27 show that 284,495 sorry, I beg your pardon, that these sums were lodged to the Amiens account?

A. Yes, 107014.

Q. Now I think there are two further documents in relation to this statement and I think, one further document, sorry and is that what does that show?

A. It further shows there is we were very good with our blocking out, we actually blocked out one of the descriptions against the amount it shows that there was a withdrawal from that account on the 29th May, you will see drawn, œ282,500. There is a further withdrawal of 21,583.68 pence. So the monies lodged was certainly more than withdrawn.

Q. Could you go over those figures again Ms. Kells?

A. It shows a lodgement on the 29th May, I think the statement date of 29th May 1987, a lodgement of €284,495.02, that being the Irish pound equivalent of the conversion of the sterling €260,000. There is a withdrawal of €285,000 on the same day. So the same day the money was received, 285,000 was withdrawn.

Q. That's the figure I wished you to go over. I thought you said 282,000 previously

A. Oh, I beg your pardon. And there was a further withdrawal of €21,583.68.

Q. Document number 11 now please.

A. Again, it is the daily input log. It is part of the bank's internal records showing the transactions processed, again debit and credits must equal and they were input in deal number order. So on the far right-hand side sorry, far left-hand side, we can see the input sequence and the deal number for this transaction, it's 4068. The transactions processed were the debiting to the foreign exchange sundry dealing account, the internal Guinness & Mahon foreign exchange dealing account, a debit being processed of €24,725.27. And a lodgement or lodged as you can see, the description there, to the Amiens account, 10407014, the credit and they are actually value dated 28th May 1987 and I referred earlier to the description when we were looking at the statement for the foreign exchange dealing account. I have heard the

description of the reverse deal it was not strictly in accordance with the essence of transaction and I think this further endorse it is that the 24,000-odd was actually lodged to an Amiens account. The deal was not reversed. It was purely the money was moving out of the FX dealing account into the Amiens account.

Q. The FX dealing account being the foreign exchange deal account?

A. Foreign exchange, sorry.

Q. So does document number 11 confirm that œ24,725.27 was lodged to the Amiens account?

A. Yes, it does.

Q. Now, I am going to put up document number 12 first of all in the microfiche copy and now our reconstituted copy. I think that again is the daily input log?

A. It is, yes.

Q. Of the bank.

A. Yes.

Q. What does that show?

A. It shows, this time for deal number 3109, it shows that the internal, bank's internal foreign exchange dealing at 90065018 was debited with 284,495.02 and the Amiens account 10407014 was credited with 284,495.02. The value date for this transaction was the 29th May, 1987 which was the value date on the original foreign exchange deal converting the 260,000 which we saw earlier on the 27th May, value date 29th May and here it's the value date again, and again the

description doesn't accord with the true essence of the transaction. There is a lodgement to the Amiens account but on the foreign exchange dealing account we have the description rev deal which is reverse deal.

Q. And does this document confirm that 284,495.02 was lodged to the Amiens account?

A. From the foreign exchange dealing account, yes, it does.

Q. Put up document number 13 please. What is document number 13, Ms. Kells?

A. Yes, we have earlier seen this. It is Mr. Haughey's resident current account again and it shows the balance as at 28th May, €261,824.96 in debit. On the 29th May, it shows the application of interest to that account and the interest applied was 21,055.77, and it shows a lodgement on the same day of €282,500

Q. Sorry, could you go over

A. 285,000, sorry, I beg your pardon, 285, €285,000 being lodged to the account on the 29th May. It further shows, after this lodgement on the 29th May, this gave a closing balance of €2,119.27 credit and this balance was withdrawn on the 9th June, 1987, leaving zero balance on the statement and the account closed.

Q. Now, document number 14. Again this is the microfiche copy and we have put up a reconstituted copy.

A. Again this is the daily input log and it shows the entry, debits and credits for deal number, I think it's 3107 and it shows that on the 29th May, there was a debit processed

across the Amiens account 10407014, in other words, there was a money withdrawn from the Amiens account of €285,500, and the said amount was lodged to account number 03356000, and we have earlier seen that that was Mr. Haughey's current account and the description used to describe the transaction is lodged.

Q. So document number 14, am I correct in saying, shows that €285,000 was lodged to the account of Mr. Charles Haughey and was transferred from the Amiens account you were referring to?

A. Yes, it records that.

Q. Now document number 14, in its reconstituted form, is that the daily input log of the bank again?

A. Yes, it is.

Q. And what does that show?

A. Okay. This shows this is the daily input log for the 3rd June, 1987 and it refers to deal number 4003. It records the debits and credits regarding that deal. And in this, you will see the first transaction is a credit to 90039092, and that was the bank's internal, what we refer to as notes and coins or our cash account. So any cash transactions were processed across 90039092. And there are about nine other transactions there, but second from the bottom, you will see account number in the third column from the right. You will see account number 10407014 and a debit beside it and it refers to the withdrawal of €21,583.68 with a description drawn. So the

interpretation from that is that 21,583.68 was withdrawn

from Guinness & Mahon on the 3rd June in cash.

Q. That is from the Amiens account?

A. From the Amiens account, yes, held by the bank or with the bank.

Q. With the bank. Could we have document number 15 please.

Is document number 15 a further statement of account of

Amiens Securities?

A. It is, yes, it's a further statement of 10407014, which is the Amiens account we have been referring to throughout.

It is a statement dated 11th June, 1987 and it shows on the

8th June, '87 a withdrawal or drawn debit of 4,755.88. It

also shows on the same date, a credit for

2,000 sorry the original statement does show the 9th

June. You will see a credit for 2,119.27, the date is

actually blocked out but it is the 9th June.

Q. So document number 15, am I correct in saying means that

4,350.88 was withdrawn from the Amiens account on the 8th

June and on the 9th June, there was a lodgement to that

same account of 2,119.27?

A. That is correct, yes.

Q. Could we have document number 16 please. That's the

microfiche copy and if we could have the reconstituted

copy. Now, does document number 16 give you any

indication of the source of the lodgement of 2,119.27 to

the Amiens account on the 9th June?

A. Yes. The money was transferred from Mr. Haughey's account

03356000 on the 9th June. You can see the debit there.

Again same deal number, so it is the same transaction.

Q. And does that correspond with the statement account of Mr.

Haughey's showing the withdrawal?

A. Yes, it does.

Q. Document number 17 please. Again that's the microfiche

copy. That's your daily input log again, Ms. Kells.

What does that show?

A. That shows that on the 8th June, and we saw this earlier on

the Amiens statement, a drawn or withdrawal or a debit for

4,755.08. You can see it is the last of the six

transactions there under the deal number 5042. At the

very top of those transactions, you can see œ5,053.63 was

credited to 90039092 which is the bank's cash account I

referred to it earlier, it is the internal account number

for Guinness & Mahon's cash account. That means that

œ4,755.68 was withdrawn in cash on the 8th June.

Q. From the Amiens account?

A. From the Amiens account, yes.

Q. Document number 18 please. Is there sufficient clarity on

that for you to be able to comment upon?

A. This is a copy of the statement from Guinness Mahon and Co.

in London. We requested the our former

Q. Yes.

A. We asked our parent in London if they would produce the

statement for us and I think it shows, I haven't got it in

front of me, I think it's the 28th May it shows by order of

Ulster Bank and it shows a lodgement of €282,485 sterling to our nostro account, that account is actually in our name in Guinness Mahon Dublin's name with the London bank, it shows the lodgement on the 28th May.

Q. And it is by order Ulster Bank?

A. That is correct, yes.

Q. Now you have already told us that the corresponding debit from the account in Dublin was sterling €285,495?

A. I have, yes.

Q. Isn't that correct?

A. Yes.

Q. And if that were so, it would appear to have left the account out by a balance of ten pounds?

A. That is correct and we would have identified that ten pounds difference on our reconciliation of the nostro accounts.

Q. And did you undertake that exercise?

A. We would have, yes.

Q. And can you say whether you can identify that ten pounds at any later stage?

A. Yes, I think, the gremlins seem to have got my statements but I think it's on the 2nd or 3rd June the ten pounds is passed across

Q. We will put the next document. I think it's the 2nd June, is that correct?

A. 2nd June. Yes, that is the Ansbacher 602 account, the general account and on the 2nd June, you can see there the

additional ten pounds charge being passed across the 602, the description being GM and Co. charge re: special. That was the balancing ten pounds and that transaction I know was actually credited to our nostro account with London to make the entire transaction balance. So the receipt of the £282,485 plus the five pounds which was processed on the 28th May, plus the ten pounds which is processed now on the 2nd June, equates to the £282,500 which

Q. Sterling?

A. Sterling, all in sterling.

Q. Which came into your nostro account by order Ulster Bank?

A. That is correct, yes.

Q. So in fact, the special clearance charge appears to have been 15 pounds rather than five pounds?

A. Yes, it was expected to be five pounds. It transpired to be 15 pounds so an additional entry was passed making up the ten pounds shortfall.

Q. Now, from your analysis of this series of transactions through a large amount of documentation, can you summarise at this stage what it indicates?

A. Okay. The three sums which were withdrawn from the Amiens account on the 28th May, Guinness Mahon and Co. in London received STG £282,485. There was 15 pounds of a bank charge reimbursed to this amount from the Ansbacher 602 account to give it £282,500. This was broken into two sums, £260,000 and sorry, and £22,500. The two amounts were converted to generate IR £309,220.29. That's the

equivalent of the transactions. And the Irish pound equivalent was used was withdrawn from the Amiens account through these next transactions, 285,000 was withdrawn, was debited or withdrawn from the account on the 29th May, 1987 and credited to this account. €21,583.68 was withdrawn in cash on the 3rd June, 1987 and €4,755.88 was also withdrawn in cash on the 8th June 1987. Less the sum that was left on Mr. Haughey's account after the lodgement of 282 €285,000, there was €2,119.27 which was lodged back into the Amiens account on the 9th June, the Amiens account being 10407014. The net of all these transactions is 309,220.29. And that is the Irish pound equivalent of the €282,500 sterling which came into our account in London.

Q. By order of Ulster Bank?

A. Of Ulster Bank.

Q. My Friend, Mr. McGonigal, quite rightly has passed me a question he'd like to put to Ms. Kells. I have been on my feet since half past ten and Ms. Kells has been in the witness box. I wonder in the circumstances if Your Lordship might rise for a few moments to enable me to just discuss it with Mr. McGonigal because, to be honest at this stage, I am just not quite clear myself about what the question is.

CHAIRMAN: Will five minutes suffice?

MR. COUGHLAN: Five minutes.

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

Q. MR. COUGHLAN: Ms. Kells, can you say when the Amiens
Securities account was opened to the best of your
knowledge?

A. Yes, to the best of my memory, I think it was opened in
1986.

Q. And can we can you just confirm that it wasn't just opened
for the transaction you have just recounted?

A. No, account 10407014 would have been open for a couple of
years.

Q. And there were other transactions?

A. There were other transactions, yes.

Q. Now, there is just one or other two matters I should
clarify with you. I think when I was leading you through
evidence of a general nature, at the beginning of your
evidence, I referred to the internal audit report as being
an internal audit report which had been as a result of an
audit carried out in Dublin by Dublin, isn't that correct?

A. It was actually carried out by the parent.

Q. It was carried out by London?

A. Yes.

Q. That's the first thing I want... And secondly, when I
referred to the or it referred to the €38 million Irish as
being the sum of the Ansbacher deposits in Dublin I
should clarify that what was involved there, that it was

œ38 million Irish which was the equivalent of foreign monies held in the Ansbacher accounts in the Irish bank, the Dublin bank?

A. Yes, it was.

Q. Isn't that right?

A. Yes.

Q. Thank you, Ms. Kells. I don't know if anyone wishes to ask you any questions.

CHAIRMAN: Mr. Devitt, have you any matters to raise?

MR. DEVITT: I understand Mr. Collery may be giving evidence this afternoon and we don't have any questions at this moment in time.

CHAIRMAN: Are there representatives seeking to ask Ms. Kells any questions at this stage of her evidence? Thank you very much.

THE WITNESS THEN WITHDREW.

MR. COUGHLAN: Sir, we have moved faster than we anticipated and there are two, it may have seemed slow but we did go faster than we anticipated and there are two short witnesses dealing specifically with the movement of the monies from Ulster Bank to London and I wonder, in the circumstances, if you might rise early for lunch.

CHAIRMAN: Are they not available now?

MR. COUGHLAN: They are not available immediately until after lunch.

CHAIRMAN: We did make progress with some rather intricate evidence. Perhaps we will just start slightly earlier at twenty to two rather than a quarter to two.

THE TRIBUNAL THEN ADJOURNED FOR LUNCH.

THE TRIBUNAL RESUMED AS FOLLOWS AT 1:40PM:

MR. COUGHLAN: Sir, the next witness will be Mr. Padraig Collery and My Friend Mr. Healy will take him.

MR. HEALY: Mr. Collery.

PADRAIG COLLERY, HAVING BEEN SWORN, WAS EXAMINED AS FOLLOWS
BY MR. HEALY:

CHAIRMAN: Good afternoon, Mr. Collery.

Q. MR. HEALY: Thank you, Mr. Collery. Mr. Collery, you work in the Banking Financial Centre at the moment and in 1987 I think you were an employee of Guinness & Mahon; is that right?

A. That is correct.

Q. And I think at that time you were, you dealt with a number of transactions but one transaction brought to your attention and which I am going to draw to your attention today is a transaction concerning a foreign exchange deal that has your reference on it?

A. That's correct.

Q. I will get copies of the foreign exchange deal in question for you. It's on the monitor as well if you want it.

A. Okay, thank you.

Q. Now, first of all, if I can just take you to the part of the foreign exchange deal that contains a link to you. I am now looking at a reconstituted version of it and if you look down close to the bottom left-hand corner, you will see details, 'reference PC'.

A. That is correct.

Q. And on the original. Is that your reference?

A. That is my reference.

Q. And that indicates that you were responsible for organising that foreign exchange transaction.

A. Yes, that would indicate that I gave the instructions to the foreign exchange dealer to make those transactions.

Q. Now, I think you have another exchange dealing ticket in front of you as well, with the documents handed up to you; is that right?

A. That is correct.

Q. This exchange dealing ticket is for a smaller amount of money. The last one was for a much more substantial amount. This one is for €24,725.27.

A. That is the Irish pounds amount.

Q. Right. That is the amount that was obtained for the English €22,500?

A. Correct.

Q. And again, I think we can take it from the reference in the bottom left-hand corner it was you responsible for giving the instructions for that foreign exchange transaction?

A. That would indicate that, yes.

Q. Now, this money was obviously not your own money and in order to give these instructions, you had to get instructions from somebody else; is that right?

A. In such instructions, that would have been correct.

Q. And in this case, can you say from whom you would have received instructions to carry out this foreign exchange dealing?

A. For instructions over the account in question, I would have received instructions from Mr. Traynor.

Q. That's because it's the 602 Account; is that right?

A. That is because it's belonging to Guinness Mahon Cayman Trust 602 Account.

Q. Right. And those instructions, how would they have come to you?

A. They could have come verbally or they may have come by memorandum form.

Q. And from whom would you have received that memorandum form?

A. From Mr. Traynor.

Q. And at that time Mr. Traynor was no longer working in the bank, isn't that right?

A. Yes, I think he had left, he had left around '86.

Q. So they would have been transmitted to you outside the bank and brought to you within the bank; is that right?

A. That is correct.

Q. If you look at the dates on the foreign exchange dealing ticket, if you look at the dates on the two, the contract dates, I think you have got that, the contract date on that foreign exchange dealing ticket is, I can't read it terribly well

A. The large amount is the 27th May.

Q. The large amount was the 27th May and the smaller amount is the 28th May?

A. That is correct.

Q. Each date, the value date was the same, the 29th May; is that right?

A. That is true.

Q. Now, just taking the larger amount for a moment, that was that's dated the 27th day of May, 1987?

A. Correct.

Q. Now, from evidence given here this morning, it would appear that the sum of money used to purchase the Irish pounds was not in the bank at that time, at the time the contract is dated, the 27th May and it was suggested by Miss Sandra Kells that would indicate that somebody had to give instructions anticipating that that money was going to arrive in the bank; is that right?

A. It could well indicate that, there could be two understandings of that. Probably that construction is the correct one or you would have to ensure there were adequate funds in such an account to meet those instructions.

Q. Yes. Thanks very much.

CHAIRMAN: Anybody got any questions arising out of Mr.

Collery's testimony? Thank you very much for your time,

Mr. Collery.

A. Thank you, Chairman.

THE WITNESS THEN WITHDREW.

MS. O'BRIEN: Mr. Ross McCarter, Sir.

ROSS MCCARTER, HAVING BEEN SWORN, WAS EXAMINED AS FOLLOWS

BY MS. O'BRIEN:

CHAIRMAN: Thank you Mr. McCarter.

Q. MS. O'BRIEN: Mr. McCarter, I think you are the chief manager of Ulster Bank Limited here in the College Green branch; is that right?

A. That's correct, yes.

Q. And I think you have been 32 years with the bank; is that correct?

A. That's correct, yes.

Q. So you have considerable knowledge of the systems of the bank insofar as they are used down here in the south of Ireland; is that right?

A. That is correct, yes.

Q. And am I correct in thinking that the systems and machines whereby cheques are processed for clearing down here in the south of Ireland are the same as those used in the branches

in the north of Ireland?

A. There will be some differences in the system but for that end of things, these are largely the same, yes.

Q. Now, I think, Mr. McCarter, you have been requested by the Tribunal to assist the Tribunal in relation to a cheque dated the 20th May that was drawn on an account of Dunnes Stores with Ulster Bank, Newry?

A. That's correct.

Q. I think I can hand up to you the original of that cheque (document handed to witness.) Now you see that that's dated the 20th May, that it's payable to Tripleplan Limited and it's an amount of STG €282,500?

A. Yes.

Q. And I will just ask you to turn the cheque over to look at the reverse side of the cheque, Mr. McCarter. You see there on the left-hand side as it's shown in the overhead projector, there are a series of numbers on the cheque.

Could you tell firstly by that bank or by whom would those numbers have been printed on the cheque?

A. From the second series of numbers, it would seem as though it was Newry branch that processed the cheque.

Q. The second set of numbers is 981140, is that the set of numbers?

A. That is correct, yes.

Q. What does that signify or how do you identify the Newry branch from those numbers?

A. All branches of all banks have their own code number and

that is the number that relates to the Newry branch.

Q. Very good.

A. It's also printed on the front of the cheque as well which has a Newry name on it.

Q. Now, the first set of numbers in that sequence, McCarter, 280587, what does that signify?

A. That signifies the date on which the cheque was processed, which was the 28th of the 5th, 28th May, 1987.

Q. And by processed, what exactly do you mean?

A. That it went through the branch's system on that day.

Q. On that day.

A. And, in effect, the branch would have given value for the cheque on that day.

Q. And am I correct in thinking that that means the bank would have paid on foot of the cheque on that day?

A. That would be my assumption, yes.

Q. The third set of numbers are just slightly obscured on the overhead projector, but I think it's fair to say the third set is 02. What do they signify?

A. Depending on the size of the branch, there are a number of machines for processing cheques that would signify it was the No. 2 machine.

Q. And then the final series of numbers, 20629, what do they signify?

A. That relates just to an entry that would be relevant to that particular transaction on the day.

Q. Yes.

A. And would be printed on a tally roll for balancing purposes.

Q. And how long would the tally roll be retained by the bank?

A. It's a maximum period of six years.

Q. Can I just refer you again to the front of the cheque, Mr. McCarter, I think if you just ascribe the stamp that appears on the front of the cheque.

A. It just says 'Ulster Bank Newry' and again the code, 98-21-41. There's no significance in the stamp other than that it was applied by the Newry branch.

Q. So the only stamp and only markings on the cheque are those that would have been applied by the Newry branch?

A. Yes, that's as far as I can see.

Q. Now, if value had been given for that cheque on the same date, the 28th May of 1987, what method of payment do you imagine, in your experience, would have been used?

A. Sorry, could you just repeat that?

Q. If value for that cheque had been received by the collecting bank or by the collecting party on that date, what method of payment, in your experience, would have been used by Ulster Bank, Newry?

A. It would most probably have been some type of electronic payment to get value on the same day.

Q. On the basis of your knowledge, would a special charge have been made for an electronic payment of a cheque?

A. If an electronic payment was made, it would probably have been made by the swift message and standard charge at that

time was 15.

Q. Very good. On the front of the cheque, the face of the cheque, Mr. McCarter- I should say that my colleague, Mr. McGonigal has requested that the Tribunal should ask this question of you - there is a stamp, 'Account Payee Only Not Negotiable', isn't that correct?

A. That's correct, yes.

Q. And what does that normally signify?

A. It would normally signify that the cheque should be paid to the payee's account that is named on the cheque.

Q. Firstly, can I ask you would you be at liberty to indicate whether or not, to your knowledge, Tripleplan Limited held an account with Ulster Bank in Newry?

A. I know absolutely nothing about Newry, I never worked in the Newry branch or in the north of the Ireland at all so I can't give any opinion on that.

Q. Can I just ask you one more matter in relation to the reverse side of the cheque, Mr. McCarter, I think it's clear from the image on the overhead projector, there's no endorsement on the back of the cheque, there doesn't appear to be any signature on it other than the name of the Newry branch?

A. No.

Q. Thank you. I don't know if anybody else wishes to ask Mr. McCarter any questions.

CHAIRMAN: Nobody wishes to ask any matters? Very good.

Thank you very much.

MS. O'BRIEN: Thank you Mr. McCarter.

THE WITNESS THEN WITHDREW.

MR. HEALY: Mr. Kevin Drumgoole, Sir.

MR. KEVIN DRUMGOOLE, HAVING BEEN SWORN, WAS EXAMINED AS

FOLLOWS BY MR. HEALY:

Q. MR. HEALY: Mr. Drumgoole, am I right in thinking you are a chartered accountant?

A. Correct.

Q. You are with the firm of Oliver Freaney & Company since the 1980s?

A. Well, since the seventies.

Q. Right. When did you start in practice as an accountant?

A. Well, I trained in Oliver Freaney & Company and qualified as an accountant in 1979.

Q. I think you have been audit manager since the early 1980s?

A. Correct.

Q. What does that mean in terms of the status you enjoy either in the firm or as an accountant in general?

A. Well, you would have responsibility for the running of an audit and you would act as the liaison between the audit team and the partner and you interface quite a lot with the clients and dealing with their books and records.

Q. Right. I think that you have experience of the Dunnes Stores audits from the early 1980s up to 1994?

A. Correct.

Q. Now, in the ordinary way, I think it's the policy of your firm to retain audit files for about six years after which the documents are shredded; is that right?

A. That is right.

Q. And again in the ordinary way; you wouldn't have audit files relating to a period prior to 1992 but that in the case of Dunnes Stores, you do, in fact, have some documents prior to 1992; is that right?

A. In the case of Dunnes Stores Ireland company.

Q. In the case of Dunnes Stores Ireland company?

A. That's correct.

Q. Right. Your files date back to 1989; is that right?

A. That's correct.

Q. And these files were retained because audits subsequent to 1989 were only recently completed; is that right?

A. That's right.

Q. And it was for the purpose of completing the audits that the files were retained?

A. That's right.

Q. Now, I think in the course of completing these audits, a connection between Mr. Furze and a company called Tripleplan was established, the company that's been mentioned here already today?

A. Well, in the time that I was involved, there's no connection between Furze and Tripleplan. It was subsequently discovered.

Q. Now, can you say when your first knowledge or contact with this whole Tripleplan payment or Tripleplan cheque first came to light?

A. It would have been while conducting the audit on Dunnes Stores, probably Bangor, Limited for the year ended 31st December, 1987 and we would typically have been in Newry any time from Easter onwards of '88, we would have conducted the audit from then on and during the course of that audit, the payment to Tripleplan came to our attention.

Q. And when it came to your attention, what did you do about it or what steps did you take in relation to it?

A. Well, the I think as you are aware at this stage, the item had been posted by Matt Price to the inter company accounts of Dunnes Stores Ireland of which I was also the audit manager so at that stage, the cheque was identified and I had to make inquiries as to the purpose of the cheque. I sought information in the first instance off either Matt Price or Michael Irwin who was the financial accountant of the Dunnes Stores Group.

Q. If you go a little bit more slowly for the stenographer. You say the first thing you did was seek information from Mr. Matt Price. We heard from him yesterday, he was the man who posted the amount of this cheque to the intercompany account?

A. That is right.

Q. Meaning, as he told us yesterday, that this was not a

cheque that was paid for any expense or any purpose by Dunnes Stores Bangor but paid on the instructions of Dublin for its own purpose.

A. Correct.

Q. And therefore it was money due from Dublin to him, isn't that right?

A. That's right.

Q. Now, you had to look at the Dublin accounts to see how this item was reflected in its books; is that right?

A. That's correct.

Q. And when you looked at the Dublin books, how was this item reflected in the Dublin books?

A. It was reflected as a suspense item in the books of Dunnes Stores Ireland Company or in the accounts of Dunnes Stores, it was a suspense item.

Q. I think you have made a statement to the Tribunal and if you want to have a take a copy of it with you there, I don't think there will be any objection but I think you may have mentioned Dunnes Stores Georges Street Limited as the company in whose books the item was recorded as a suspense item; is that right?

A. From memory, I think it was Dunnes Stores Georges Street at the time before they switched.

Q. Is there any significance in that, that it was Dunnes Stores Georges Street as opposed to Dunnes Stores Ireland?

A. No, it's just a reorganisation of the group and Dunnes Stores Ireland replaced Dunnes Stores Georges Street as the

company.

Q. I see. Well, to come back to the expression you used a moment ago, it was recorded as a suspense debtor item, what do you mean by suspense debtor item?

A. Well, suspense item is an item which normally requires some further form of identification or clarification so that's exactly what it was.

Q. So far as you were concerned, this was an item which didn't, as it were, speak for itself?

A. That would be correct, yes.

Q. There wasn't any documentation of the kind mentioned by Mr. Price yesterday if you were here yesterday?

A. No, I wasn't here yesterday.

Q. Mr. Price mentioned items that would have documentation that would identify the purpose for which a payment was made but this was a document or an item you had to chase up.

A. There was no documentation with this item.

Q. Right. At that time, or in 1988, did you make inquiries in relation to this item?

A. I did.

Q. Who did you make inquiries with?

A. I certainly made inquiries of Matt Price and Michael Irwin and Noel Fox.

Q. Right.

A. And maybe Ben Dunne, I can't say for certain.

Q. Can we take it a bit slowly. You say you certainly made

inquiries of Mr. Matt Price and I think he has confirmed that will be correct and it was obvious you go to him in any case. What was the result of the inquiry you made with Mr. Price?

A. He informed me that the cheque had been sent via Noel Fox on the instructions of Mr. Ben Dunne.

Q. Right. Do you remember yesterday he produced a compliment slip?

A. I wasn't here yesterday.

Q. Sorry, I beg your pardon. Are you aware of a compliment slip that was written on by Mr. Price in connection with this cheque?

A. I am aware that there is a compliment slip attached to it.

Q. When did you find out about that?

A. I can't remember exactly but I know I was aware at the time that there was, he told me that he had a compliment slip with it showing what way he had sent the cheque.

Q. Right. Perhaps if we could have the compliment slip on the overhead projector. I will come back to that compliment slip in a moment. You said you made inquiries of Mr. Price and he informed you, as you said, what he did he did on instructions. I think you mentioned other people you made inquiries of as well, Mr. Irwin. Can you remember what inquiries you had made of Mr. Irwin?

A. I asked him if he had any information of help in identifying the cheques.

Q. What was Mr. Irwin's role in Dunnes Stores at the time?

A. He was chief accountant operating in the Republic of Ireland group.

Q. When you say chief accountant, does that mean he was the executive next below the Board of Directors himself?

A. I don't know if he would see himself that way but he was certainly the senior accountant and was responsible for the accounts.

Q. What did he tell you?

A. He told me that - this is my recollection at the time, I don't have notes at the time but I know that he said that he didn't have any information on it and that he had asked Mr. Dunne and he had referred to Mr. Fox and I think asked me to go back to Mr. Fox to see what information he had.

Q. So you asked Mr. Irwin. He told you that he asked Mr. Dunne because he knew nothing about it, Mr. Dunne told Mr. Irwin to go to Mr. Fox and therefore you went to Mr. Fox; is that right?

A. Yes.

Q. When you went to Mr. Fox, directly to Mr. Fox, what did Mr. Fox say?

A. We are still in the year 1988 here?

Q. Yes.

A. I have no notes, as you know, from 1988 so I can't remember the specific answer given but I know that I didn't get any explanation. I know he would have undertaken again to go back to Mr. Bernard Dunne to seek information.

Q. Could you just repeat that again because I didn't quite

catch it?

A. What I am saying is I know he would have undertaken to go back to Mr. Dunne to seek identification but at that particular time, I didn't get a response.

Q. When you say at that particular time you didn't get a response, do you mean to indicate that you took it up with him on another occasion?

A. I would have taken it, I know I would have taken it up on other occasions.

Q. Right. Can you remember what response you got on other occasions?

A. Well, in terms of, I can't remember the exact responses but, you know, that they would speak to Mr. Dunne and get identification for the payment but never subsequently got identification for the payment.

Q. Right. I think if you look at the monitor in front of you, there's also one down there, I don't know which is most helpful to look at, you will see the compliment slip from Mr. Price. Do you recognise the compliment slip?

A. I recognise it, yes, I do, yes.

Q. You recognise Mr. Price's signature?

A. I do, yes.

Q. You see it says, "Dear Mr. Fox, I enclose herewith a cheque made payable to Tripleplan Limited for the amount of STG œ282,500 as agreed with Mr. Bernard Dunne." And does that accord with the information you got from Mr. Price?

A. It does indeed.

Q. Now, I think through your solicitors you very helpfully made some documents available to the Tribunal including some documents that only came to light recently, isn't that right?

A. That's correct.

Q. And if I may refer you to those now. (Documents handed to witness.) Now the first document which I am referring you is headed "Agenda, meeting 30th September 1989." And do you see there's an Item No. 2 mentioned. Now I think what you have is the full document but the Tribunal has excluded material which deals with the private affairs of other people and has nothing to do with the

A. Okay.

Q. And the second item there refers to identification of payment to J Furze, Tripleplan. Do you see that?

A. I see that, yes.

Q. Now, I will come back to that document in a moment but if you could just go up to the other document you have given me. Now, that looks like a memorandum or a letter; is that right?

A. It's a memo.

Q. It's a memo. And I don't know if we can get a better focus, it says "Noel" or "Dear Noel," - it's addressed to Noel Fox if you look at the top left-hand corner; is that right?

A. It is, yes.

Q. It's dated the 3rd October, 1989 and it's from Kevin

Drumgoole. At the bottom it says "Kevin" and at the top it says "Kevin Drumgoole"; is that right?

A. Correct.

Q. It says, "Dear Noel, I enclose again a list of the various problems which must be sorted out before we finalise the accounts of the Dunnes Stores Group as mentioned on Friday last. I asked Bernard Dunne about the payments to Tripleplan and J Furze and he said he would need to talk to you to jog his memory on these payments."

Now, I take it that these two documents are related to one another?

A. I think so, yes.

Q. And I am not sure of the dates myself but would Friday last be the date of the meeting or some occasion around the time of the meeting mentioned?

A. I think looking at it recently ourselves, the meeting dated 30th September, I have a typographical error on that because that's a Saturday so it would have been the Friday.

Q. Probably the Friday so one document presumably refers to the other?

A. Yes.

Q. And the second document, the memo refers to the agenda for the meeting and the meeting you must have had with that agenda and that item on the agenda?

A. Yes.

Q. Now, when Mr. Price was giving evidence to the Tribunal yesterday, he described how he might not infrequently in

any case be asked to draw cheques of the kind that we have been discussing here, the Tripleplan type cheque. And he also described how he would be asked to draw a cheque or make payments not related to his own business in the north but related to business in the south such as buying a building or that sort of thing and he described those as normal or normal trading or building type payments, he gave examples of buildings, for instance. Would you be familiar with those type of intercompany account payments?

A. I would be familiar with intercompany account payments.

Q. And I think that the type of expression he used was normal for the type of intercompany account payment that would have documentation attached to it showing what it related to such as the purchase of a building or deposit or whatever?

A. Just to clarify a point there, I am not sure what you mean by the term normal.

Q. I am simply using it as an easy way for us to describe two different times of a payments?

A. I am not sure if a payment was requested that Matt always had the documentation for the ones that he posted intercompany.

Q. When you come to deal with intercompany, there could be payments that could be tracked back to some trading purpose, and for ease of reference I simply want to call those normal payments, you track back to some trading relationship Dunnes Stores had?

A. Oh with very, very few exceptions, there was a trail of paper for every payment.

Q. Absolutely, correct. Now, these payments, the ones we are talking about here that didn't have a trail of paper, I am calling those not normal or unusual.

A. Okay.

Q. It's just to make it easier for us to discuss this in putting some kind of a tag on it. Now, at the meeting on the 30th September, 1989 the Tripleplan payment would have been a not normal payment, isn't that right?

A. Well, it was one of the payments we are discussing, yes.

Q. And the Furze, the reference to J Furze is a reference to a payment that was again a not normal payment presumably as we know from the report of the McCracken Tribunal?

A. Yes.

Q. So that there were only, would I be right in thinking, there were only two such not normal payments on that agenda?

A. Correct.

Q. Would that mean that out of the audit that was being carried out in 1989 for the year 1988, sorry for the year 1987, you were updating it, you were trying to clarify matters that hadn't been clarified the year before, that there were only two items outstanding?

A. Well, those two particular items, yes.

Q. Yes. Do you remember in the previous year how many, even roughly, how many not normal payments there were? Were

there many?

A. Other than these two, there was no other

Q. I see. Now, in 1988 these two items were awaiting clarification and by 1989, they were still awaiting clarification?

A. Correct.

Q. And in 1989, clearly you drew the matter to Mr. Fox's attention and you clearly showed him that this was a problem and that you had drawn it to his attention before; is that right?

A. That's correct.

Q. Did you get any response in 1989 that you can recall?

A. I can't recall the specific response but as I say, I know that he would have said that he would go again to Mr. Dunne to seek some clarification.

Q. Right, but in writing to Mr. Fox, you were saying I have spoken to Mr. Dunne, Mr. Bernard Dunne, and he said he would need to talk to you about it so you were short-circuiting it by going to Mr. Fox?

A. I presume, having spoken to Mr. Dunne to get that.

Q. Yes. And I take it from the fact that you have made a subsequent statement to the Tribunal, you didn't get clarification in that year, 1989?

A. No.

Q. Could we take it that the matter must have been mentioned by you in the course of carrying out your duties in the audit each year from then onwards?

A. Yes.

Q. 1990, '91, '92?

A. I don't know when exactly I stopped asking for it but you know, I know I would have asked for any identification we received for this matter since.

Q. Right. And when you say this matter, you mean two matters, Mr. Furze, the payment to Furze and the payment to Tripleplan?

A. Correct.

Q. Now, eventually you did find out something about these; is that right, these payments or even if you didn't, your colleagues did?

A. It was after that identification was subsequently made.

Q. And are you aware of when the identification was subsequently made?

A. I can't give you chapter and verse on the Furze one because I don't remember. From my own recollection I thought it was the Irish Times I saw the J Furze payment but the Tripleplan, I believe, was sometime in January or February this year.

Q. This year?

A. Of last year.

Q. Of 1998?

A. Yes.

Q. Right. And are you aware that searches were carried out against the company known as Tripleplan Limited by I think your company, Oliver Freaney & Company, to try to identify

the company?

A. Yes, I am aware of that.

Q. And those searches were carried out either in 1998 or perhaps sometime earlier?

A. Well, I am aware of searches, if you want to ask the people who carried out the search but I think it was 1994.

Q. 1994?

A. That's my recollection, you would have to

Q. That's your recollection of it in any event?

A. Yes, but I didn't deal with those searches so...

Q. Right. Was there any reason why you didn't think of carrying out a search?

A. Well, I assumed that the people to give me the information were at that stage either Bernard Dunne or Noel Fox because they were the people who whom the payment was routed or constructed.

Q. If a search was to be carried out, would somebody instruct you we better track this further and carry out searches?

A. I could have ordered the search myself but it didn't strike me as a reason at the time that I should.

Q. I see. If a search had been carried out at the time, of course it would have shown that in 1989 that Tripleplan, if a search, a full search had been carried out, would have shown that Tripleplan was a company associated with Mr. Furze; is that right?

A. Well, how far do you go? As I say, we are auditors, it wouldn't possible to follow it all the way through. How

many countries did you want to search, to find something you had no innate suspicions or anything like that about?

The ultimate identity of the payments wasn't in any way dealt with at that time so we just carried on a normal routine course.

Q. The cheque had come did you examine the cheque that came back from Tripleplan at any point?

A. No.

Q. Thanks very much, Mr. Drumgoole.

MR. CONNOLLY: I wonder, Chairman, could I ask, I was going to ask if I could ask a number of questions at this stage on behalf of the Revenue and it might be appropriate if I went before the Dunnes Group and I make the application in particular context under which the Revenue are aware before you, Sir. You will be aware in the Terms of Reference, one of the Terms of Reference, one of the matters you have to consider is whether the Revenue Commissioners availed fully and properly in a timely manner of powers available to them in collecting tax of Mr. Haughey and Mr. Lowry and in that context, there are one or two questions I usefully believe .

CHAIRMAN: I accept you have an interest in this particular aspect certainly, Mr. Connolly, and I think in those terms, it's probably preferable that you proceed before perhaps people appearing for parties who may have been more immediately proximate to Mr. Drumgoole. Whilst, ladies and

gentlemen, we are not bound by the ordinary sequence of evidential examination and cross-examination, it occurs to me after Mr. Connolly it would probably be preferable that Mr. Hardiman or Mr. Nesbitt and Mr. Gallagher might then and if he so wished, Mr. McGonigal might raise matters and it seems preferable you will be left to the end, Mr.

Gordon.

MR. GORDON: I accept that.

MR. CONNOLLY: May it please Your Lordship. In that context I propose to put a number of questions. I have endeavoured as far as I can to alert the Tribunal legal team to any matters I wish to raise but these are matters I would like to explore that bit further but within this context.

CHAIRMAN: I accept that.

THE WITNESS WAS CROSS-EXAMINED AS FOLLOWS BY MR. CONNOLLY:

Q. MR. CONNOLLY: I have only one or two matters to put to you, Mr. Drumgoole, in relation to the suspense account.

I want to understand what's involved in the actual suspense account. If I am right in interpreting your evidence, where we have here a payment from Dunnes Stores Bangor Limited which was made, according to Mr. Price, on behalf of Dunnes Stores Dublin, that then involved the monies being credited in some way towards the towards debts that would otherwise have to be paid to Dunnes Stores Bangor

Limited; is that correct?

A. That's correct, yes.

Q. So that this money was then, having been paid by Dunnes Stores Bangor Limited, as we have heard from Mr. Price, was passed on in the books, so to speak, to the Dunnes Stores Group in Dublin. They then would set that down as a credit, it would be in some way towards Dunnes Stores Bangor Limited?

A. That's right, they reflected it as passing as a credit.

Q. And the suspense account, if I can understand this, I know the expression has been used by you and by Mr. Price, is there actually a physical set of accounts that are quite separate from the main accounts?

A. No.

Q. That's what I wanted to clear up. There isn't a set of books there some authorised person in the Revenue or any other context properly ought to inspect, it's a phrase you use?

A. It's a phrase. You can imagine the size, there's hundreds of

Q. That's what I wanted to clarify and if I understand the position then is that this is the, this particular item, the one we are talking about, the €282,500, that is then set out down for unspecified item to be clarified later, is that a fair way of describing it?

A. Yes.

Q. In any event, it's treated as if it was monies paid out

from the Dunnes Stores Group in Dublin?

A. In Dublin.

Q. And it remains as that, it's in the books then?

A. It's in the books.

Q. It's in the books as expenditure they have made, it will be clarified at a later stage by you but it is monies that have been paid out by the Dunnes Stores Group through the Bangor company?

A. Still carrying as that until it was finally identified.

Q. Yes. I think the documentation that you were showing us on the screen, that's headed 'Dunnes Stores Group', that's a general

A. Use of terminology.

Q. It covers all the companies you would have been looking at?

A. On the agenda, there was a couple of companies we were discussing matters concerning them.

Q. All of those items you were dealing with, it's the other document actually, all of those companies that you were looking at was based in the Republic, the Dunnes Stores Group?

A. Well, the rest of the agenda is crossed out there.

Q. Just the heading 'Dunnes Stores Group'?

A. They related to Republic of Ireland and it was actually two questions in relation to the UK company.

Q. Yes. But what you were dealing with was the Republic of Ireland companies and how they treated this particular item?

A. On, in the memo you have there, that you have up on the screen, okay. The two items, if that's what you are seeking clarification on, Tripleplan and Furze payments were in the Dunnes Stores Ireland company.

Q. That's what I wanted to clear up with you, all right. And then when you left in 1994, I think the position is you still were, you were still not aware in what way this was treated by the company?

A. This item, the Tripleplan? It's more appropriate to ask the person who took over who is here.

Q. Up to the time you left you weren't aware?

A. It was still there.

Q. Thanks very much.

A. You are welcome.

MR. HARDIMAN: No questions.

CHAIRMAN: Nothing arising?

MR. GALLAGHER: Just a couple of questions if I may, Mr. Chairman.

THE WITNESS WAS CROSS-EXAMINED AS FOLLOWS BY MR. GALLAGHER:

Q. MR. GALLAGHER: Dr. Drumgoole, I appear on behalf of Mr. Bernard Dunne and one or two questions, if I may, in relation to the matter. I take it from what you say when an item appears in the suspense account, that requires the auditor to find an explanation for it; is that correct?

A. He would seek an explanation in the normal course of events.

Q. Once it goes into the suspense account, it is clear that somebody is going to inquire about the payment and try and get further information in relation to it?

A. Absolutely.

Q. And you quite properly, in the course of carrying out your audit, identified this payment and made various inquiries?

A. That's correct.

Q. And it would be up to you to try to satisfy yourself in relation to the payment and get as much information as you could?

A. Correct.

Q. The memorandum which, to which the Tribunal drew attention, that is a memorandum of yours of the 3rd October, 1989. In that memorandum to Mr. Fox, you were referring to some conversation you had with him on the previous Friday; is that correct?

A. That's right.

Q. And I think that records that you had asked Mr. Dunne about the payments and Mr. Dunne told you that he would need to talk to Mr. Fox to jog his memory.

A. That's correct.

Q. And you were informing Mr. Fox of this?

A. Correct.

Q. Thank you.

MR. MCGONIGAL: No questions.

CHAIRMAN: Mr. Gordon?

MR. GORDON: Thank you, Sir.

THE WITNESS WAS CROSS-EXAMINED AS FOLLOWS BY MR. GORDON:

Q. MR. GORDON: Just a couple of matters of clarification.

First of all, in relation to any possible confusion over the status of Dunnes Stores Georges Street Limited, I think Mr. Drumgoole, I think it was in 1988 that the assets and liabilities of Dunnes Stores Georges Street Limited were, in fact, transferred to Dunnes Stores Ireland?

A. That's right.

Q. Another matter you are dealing with two cheques, the Furze cheque and of course the Tripleplan cheque. The Furze cheque is, in fact, the cheque which was dealt with by the McCracken Tribunal?

A. That's correct.

Q. One other matter finally, we know that in 1989 these items, these two cheques were still outstanding by way of query in the course of your audit. Did you, in your capacity as audit manager, make a recommendations as to how these cheques should be treated in the accounts of Dunnes Stores Ireland thereafter and what was done about that?

A. Well, I made a recommendation at the time that we provide against the cheques in that assets and revenue wouldn't be understated or overstated and I recommended that to the audit partner at the time, Pat O'Donoghue, who concurred

with the recommendation.

Q. Yes. And was that done after the 1989

A. That was done in the audit for the year ended, when that was being signed off, 31/12/'89 to my recollection. It was sometime subsequent to the year end.

Q. I understand. So that was then put into practice?

A. It was.

Q. Would that be in accordance with good auditing standards?

A. It would indeed.

Q. Thank you very much.

MR. HEALY: Thanks, Mr. Drumgoole.

CHAIRMAN: Nothing further? Just one point I am not entirely clear on as yet, Mr. Drumgoole. When you referred to being in Newry at a particular time, was that on the basis that you had, if you like, a 32 county remit, that you were undertaking the Newry audit?

A. As well as Dunnes Stores

CHAIRMAN: As well as the various Republic companies?

A. That's correct.

CHAIRMAN: Thank you very much. Thanks indeed for your time.

THE WITNESS THEN WITHDREW.

MR. COUGHLAN: The next witness, Sir, and because there has been a lot of technical evidence which has gone a

little bit faster than anticipated, the next witness will be the final witness to give oral evidence today and it's Mr. Paul Wise.

PAUL WISE, HAVING BEEN SWORN, WAS EXAMINED AS FOLLOWS BY MR. COUGHLAN:

CHAIRMAN: Please sit down, Mr. Wise.

Q. MR. COUGHLAN: Mr. Wise, I think you are a chartered accountant by profession and you are a partner in the firm of Oliver Freaney & Company Chartered Accountants?

A. That's correct.

Q. And I think Oliver Freaney & Company act as auditors to a number of companies within the Dunnes Stores Group?

A. That's correct.

Q. I think you became audit partner responsible for these audits for the year ended 1st January, 1994.

A. That is correct, yes.

Q. And I think that was your first involvement with the Dunnes Stores audits?

A. That's correct.

Q. Can you say when you became audit partner of the Dunnes Stores companies' accounts in 1994, whether or not the accounts had been signed off up to that date?

A. There were a number of periods outstanding up to that date.

Q. Did you become aware of a cheque payable to Tripleplan Limited around that time?

A. Yes. When I became the audit partner, yes.

Q. And I think was that treated as a suspense debtor item, that is a payment awaiting clarification in the accounts?

A. That is correct.

Q. Did you or did somebody on your behalf carry out searches against the company Tripleplan Limited at that time?

A. In 1994 a search was carried out against Tripleplan Limited in northern Ireland and in southern Ireland.

Q. Yes. And were any searches made any further afield at that time?

A. At that time, no.

Q. Did you cause searches to be carried out against that company at any time subsequently?

A. Yes, I did. In 1997, I asked that searches be carried out in various jurisdictions to see if we could track a company with the name Tripleplan Limited, which were carried out and there was no company called Tripleplan Limited came back on those searches as such. In early 19

Q. Sorry, if I could just ask you is the reason for the carrying out of the searches because this amount was still being carried in the same manner in the Dunnes Stores accounts?

A. Yes, and the company was anxious to finalise its accounts as well.

Q. Yes. So did anything happen in the year 1998?

A. Yes. In February, 1998 in a discussion with some of my colleagues in the office, we were talking about company

searches generally and it was brought to my attention that sometimes UK searches do not encompass companies that are dissolved. I immediately made inquiries of our secretarial department if this had happened in relation to searches carried out on my behalf and as it so happens, that was the case. The company carrying out searches on our behalf in the UK were contacted. They carried out a search on the dissolved register that they had and hence the Tripleplan Limited came up and it was a company that had been dissolved in 1988.

Q. I would like to put up some documents at this stage which I think were provided to the Tribunal by your firm showing the trail of searches. I think the first one is a fax which is directed to Eurolife Company Services Limited, I think that's a company in the United Kingdom?

A. That they carry out searches on our behalf in the United Kingdom.

Q. I think that's dated 25th November, 1997; is that correct?

A. That is correct.

Q. And here you are asking that a search would be carried out against Tripleplan and you also say Tripleplant I presume just to extend the field of searches?

A. Exactly, just in case, yes.

Q. And I think the reply to that was received on the 25th November, 1997 from the searchers?

A. That is correct, that is correct.

Q. Which says, "Dear Sirs, re Tripleplan and Tripleplant.

Thank you for your letter of the 20th November. We confirm that there are no companies registered prefixed with either of the above names."

A. That is correct.

Q. I think then you received a communication dated 5th February, 1998 from the searches and you had instructed them to carry out searches in Jersey and Guernsey?

A. That's correct. We were trying English speaking jurisdictions.

Q. Yes, and again that proved negative?

A. That is correct.

Q. There is also another letter from the searchers dated the 5th February, 1998 whereby you had given instructions that the search be carried out in the Isle of Man against existing or dissolved companies and again this proved negative.

A. That is correct.

Q. I think then there's a letter from Eurolife Company Services Limited dated the 18th February, 1998?

A. That is correct.

Q. And this was the first time that it came to your attention that this company had been dissolved and where it's registered offices had been at some stage.

A. That is correct, yes.

Q. I think then you obtained the company search form?

A. Yes.

Q. That's the best we can get it at the moment. And it's a

company search form and the name of the company is Tripleplan Limited and there's a number given and the principles and objects of the company are set out. The registered office is set out as being Chancery House, 53-64 Chancery Lane, London. The date of incorporation is 1st September, 1983 and the class of company is private and then the secretary is Management & Investment Services Limited, 3 Trinity Street, Dublin 2 and we go down along and then there are directors listed as being Mr. John A Furze and John A Collins. The shareholders are indicated as being College Trustees and Sovereign Management Limited.

A. That's correct.

Q. I think as a result of this information coming to your attention, you brought the matter to the attention of the Tribunal?

A. That is correct.

Q. Now, apart from conducting the searches, had you had any discussions with Mr. Freaney sorry, Mr. Fox or Mr. Dunne about this figure appearing in the accounts?

A. Certainly not with Mr. Dunne because Mr. Dunne had left the company when I became involved in the audit as such. I may have, in the course of the four years, discussed the matter once or twice at most with Mr. Fox.

Q. Now I think you would have considered that the Tripleplan cheque was for a large amount and had been posted to suspense by the company and did require explanation?

A. That is correct.

Q. And that no information was available about the nature of the payment until you observed the result of the search which we have just seen on the monitor in February of 1998?

A. Yes, that's correct.

Q. But from an audit perspective, the amount in question did not affect the firm's, your firm's opinion that the 1987, '88 and '89 accounts represented a true and fair view of the company's financial statements?

A. Because the amount wasn't material in an audit context.

Q. Because relative to the total size of the company's business, the impact would not have been significant?

A. That is correct.

Q. I think the technical or term of art used in that in auditing terminology, the amount was not material?

A. That is correct.

Q. Now, do you have a recollection of raising the matter with Mr. Fox?

A. I have no specific recollection except to say that in the course of the period between 1994 and 1998, I have a recollection that I would have mentioned it on one occasion in particular, maybe twice but that would be the extent of it because in the context of doing the audit, it really wasn't a material item.

Q. Yes.

A. It was something that just required clarification and was an issue among others, to complete the audit.

Q. Yes, but the accounts hadn't been signed off for some years; isn't that correct?

A. That is correct.

Q. And I take it that it is something that you wanted done to tidy matters up?

A. As well as the company, may I add.

Q. Of course and in the interests of your planning?

A. Yes.

Q. So without an explanation or something by nature of the search throwing light on something, you couldn't sign off the accounts?

A. Not necessarily because of this issue. That would not be correct to say because as I say, this is not material in the context of expressing an opinion in the group's accounts so for that reason, this alone would not be the issue at all.

Q. Yes. Do you have any recollection of what Mr. Fox might have told you on the at least one occasion you may have raised the matter?

A. He had no recollection.

Q. You had no recollection?

A. He had no recollection.

Q. He had no recollection. Thank you.

MR. CONNOLLY: One or two matters of a similar nature to the one I dealt with with the last witness.

THE WITNESS WAS CROSS-EXAMINED AS FOLLOWS BY MR. CONNOLLY:

Q. MR. CONNOLLY: Mr. Wise, one or two questions on behalf of the Revenue. When you took over in 1994, I appreciate that you caused some searches to be carried out but the audit procedures that you followed through Oliver Freaney were along similar lines of the procedure by your predecessors in the audit section?

A. Yes.

Q. And as far as you were concerned, the Tripleplan cheque involved a payment made by Dunnes Stores Bangor Limited on behalf of Dunnes Stores, is it Ireland Limited, for which there was no identified transaction purpose?

A. That is correct.

Q. Thank you.

MR. GALLAGHER: One question if I may, Mr. Chairman.

THE WITNESS WAS CROSS-EXAMINED AS FOLLOWS BY MR. GALLAGHER:

Q. MR. GALLAGHER: Mr. Wise, the memorandum that Mr. Drumgoole produced and that was put on the screen recording Mr. Dunne's instruction for him to check with Mr. Fox in relation to it, I take it you weren't aware of that memorandum at the time when you were making inquiries?

A. No.

THE WITNESS WAS CROSS-EXAMINED AS FOLLOWS BY MR. GORDON:

Q. MR. GORDON: If I just clarify one or two things with you, Mr. Wise. First of all, when you became the audit partner

in relation to Dunnes Stores in 1994, this is all responsibility in relation to not just Dunnes Stores Ireland Company but, in fact, many companies?

A. That is correct, yes.

Q. And it was, as I understand it, only in the context of Dunnes Stores Ireland company that there were outstanding queries?

A. That is correct, yes.

Q. There were indeed many Dunnes Stores trading companies which were audited annually without any problem as far as Freaneys were concerned?

A. That is correct, yes.

Q. Would it be the case when you assumed this role in 1994, as a matter of fact, the only company in the group whose audit had not been signed off for some years was Dunnes Stores Ireland company?

A. That is correct.

Q. All of the others were fully up-to-date and appropriately audited?

A. Yes.

Q. I think in addition to that, Freaneys, just as a matter of fact, while they audited many of the Dunnes Stores companies, they didn't traditionally audit all of them?

A. That is correct.

Q. I think that Deloitte & Touche also had responsibility for auditing other Dunnes Stores companies?

A. That is correct.

Q. And in relation to this particular company, Dunnes Stores Ireland company, these were outstanding queries and as you say, you obviously took a lot of trouble to try to track down the identity of Tripleplan,, I think that was your initiative but it was also the desire of the board of Dunnes Stores that that be done?

A. That is correct.

CHAIRMAN: Nothing?

MR. COUGHLAN: There is one matter I would like to ask the witness arising, Sir.

THE WITNESS WAS RE-EXAMINED AS FOLLOWS BY MR. COUGHLAN:

Q. MR. COUGHLAN: Into which Dunnes Stores accounts, which company accounts were what would be described as the suspense items?

A. Dunnes Stores Ireland company.

Q. Into Dunnes Stores Ireland.

CHAIRMAN: Thank you very much for your attendance, Mr. Wise.

THE WITNESS THEN WITHDREW.

CHAIRMAN: Under those circumstances, Mr. Coughlan, and the context of the evidence of the technical nature having gone somewhat more quickly than expected you say, there's no feasible further business we can take up until Tuesday morning.

MR. COUGHLAN: That is correct.

CHAIRMAN: At half past ten. Thank you very much.

THE TRIBUNAL THEN ADJOURNED UNTIL TUESDAY, 2ND FEBRUARY,
1999 AT 10:30AM: