

THE TRIBUNAL RESUMED ON THE 21ST OF APRIL, 2009, AS

FOLLOWS:

CHAIRMAN: The purpose of the public sittings which are commencing today, is to hear the evidence of

Mr. Christopher Vaughan, who is an English solicitor. I do not intend asking counsel for the Tribunal to make an

Opening Statement on this occasion, as detailed Opening

Statements have already been made in relation to the

inquiries which the Tribunal wishes to pursue with

Mr. Vaughan.

Those inquiries relate, firstly, to the United Kingdom

properties, that is the Mansfield and Cheadle properties,

for which an Opening Statement was made on the 22nd May,

2001.

Secondly, what have been described as the long form/short

form letters in respect of which an Opening Statement was

made in July 2002.

And thirdly, the Doncaster Rovers Football Club property in

respect of which Opening Statements were made in September

2004, and again, in February 2007.

Mr. Vaughan acted as solicitor for Mr. Michael Lowry in the

acquisition of the Mansfield and Cheadle properties and for

Westferry, a company owned and controlled by Mr. Denis

O'Brien in the acquisition of the Doncaster Rovers Football

Club property.

In the course of its investigations into these four

matters, the Tribunal has been endeavouring to hear

evidence from Mr. Christopher Vaughan, who the Tribunal always considered would be a valuable and important witness.

Mr. Vaughan assisted the Tribunal in the course of its private investigative work in advance of public sittings in providing the Tribunal with information, in producing documentation, and in attending private meetings with members of my legal team on two occasions; once here in Dublin Castle in May 2001 and once in London in September 2004.

Mr. Vaughan was not, however, agreeable to attending to give evidence at public sittings, nor was he agreeable to proposals made that his evidence may be taken in the United Kingdom at a location convenient for him, whether on commission or otherwise. As Mr. Vaughan is resident in the United Kingdom, he was not a compellable witness and his attendance could not be secured by the Tribunal unless he was served with a Witness Summons while present within this jurisdiction.

On 28th January of this year, the Tribunal was informed by Messrs. Maher Solicitors, on their own behalf and on behalf of their client Mr. Denis O'Brien Junior, that Mr. Vaughan would be attending at their offices in Dublin for a meeting on Friday, 30th January, 2009. Mr. Vaughan agreed to attend at Dublin Castle on the morning of Friday the 30th January for the express purpose of the Tribunal serving him with a Witness Summons. As agreed, Mr. Vaughan attended

for that purpose and was duly served on Friday, 30th January by the Tribunal solicitor with a Witness Summons compelling his attendance.

I then convened a short public sitting on the morning of Friday, 30th January to enable Mr. Vaughan to comply formally with that summons, which he duly did. The sittings were then adjourned to a date to be agreed, when Mr. Vaughan would attend with his legal representatives to give his evidence. Mr. Vaughan's attendance had initially been scheduled for 24th March last, but due to an accident which befell his solicitor in which he sustained injuries which prevented him from travelling to Dublin, Mr. Vaughan's attendance was deferred at his request to today's date.

Apart from Mr. Vaughan, the Tribunal anticipates hearing evidence from two further witnesses, whose evidence will be heard on the conclusion of Mr. Vaughan's testimony.

As it is the case that there is a very considerable amount of documentation and evidential matters to be pursued in the course of Mr. Vaughan's examination, my wish is that the hearing today should proceed forthwith with the taking of his evidence. If matters others than relating to Mr. Vaughan are to be raised, I would ask that any legal representatives involved write to the Tribunal or raise it with members of the Tribunal legal team and I will ensure that any such matters are attended to.

The purpose of hearing the limited amount of remaining

evidence that requires to be heard is twofold: Firstly, to enable the Tribunal to have as full a corpus of available evidence as possible to enable it to report satisfactorily, and secondly, to ensure that the full entitlements of fair procedures are afforded to persons whose interests may be affected by the eventual report.

It remains a foremost wish and intention on my part that all due fairness in respect of all interested persons be fully preserved, but at the same time it would be asinine to pretend other than that this Tribunal, which has been in progress for a period appreciably in excess of what was reasonably expected or anticipated, an aspect which will have to be addressed in the final report, it would be foolish not to acknowledge that there are considerable pressures of time to ensure that a report is presented to the Oireachtas, as required, at the very earliest possible opportunity.

There is no mention, as was stated in the course of the short public hearing in February last, it would be quite wrong if any mention were to be made of any of the provisional conclusions or findings which were circulated to interested persons by the Tribunal in the latter part of November last. Already, as helpfully transpired in the course of preparing Part 1 of the report, a substantial amount by way of submissions, many of them helpful and constructive, have been received by the Tribunal and are receiving full and careful attention. In addition, the

conclusions that were circulated have also caused a very considerable amount of correspondence which has to be considered by the Tribunal, the units of which have already run into hundreds rather than tens.

Very good. I will seek to proceed then immediately with Mr. Vaughan's evidence, and perhaps I might note any additional matters of representation that may come afresh.

Perhaps I might hear from Mr. Nathan first.

MR. LEHANE: Mr. Chairman, just before Mr. Nathan takes Mr. Vaughan through his evidence. My name is Darren Lehane, and I appear with Mr. Kelly and Mr. O'Callaghan for Mr. O'Brien, instructed by Maher Solicitors. And I appear also for Mr. O'Brien Senior, Westferry Limited, instructed by LK Shields. And I just have a small number of matters I'd like to mention, in the sense that they might have a bearing on the evidence to be given by Mr. Christopher Vaughan.

I don't plan, obviously, as you have just outlined there, in mentioning anything to do with the provisional findings, but it does have a bearing on certain events that have happened in recent days that we'd like some clarification on from the Tribunal before you commence the evidence in relation to Mr. Vaughan.

CHAIRMAN: I think, Mr. Lehane, that because of the pressures on time, I don't want to take you short, it would be my preference, quite clearly, that we embark upon Mr. Vaughan's evidence, and if something that affects your

interest transpires, I would, as I have already indicated, ask you to raise it with one of my legal team and I'll address it.

MR. LEHANE: I accept that, Mr. Chairman, but the point I want to make is very brief and it's simply this: That I have become aware through my instructing solicitor in the past couple of days that there seems to have been some conversations by means of telephone between lawyers representing Mr. Vaughan and lawyers representing the Tribunal in relation to the status of some of the provisional findings. I don't anticipate to mention the nature of those provisional findings, but there seems to have been a suggestion, Mr. Chairman, that some of those provisional findings have been withdrawn. And, in the circumstances, I would like some clarification on that for my client, as to whether or not that is in fact the case, because as you will, of course, appreciate, Mr. Chairman - I mean, I don't for one second impute any mala fides on the part of the Tribunal - but what I want to know or basically want to sort this out from the point of view of a reasonable person looking at this, Mr. Chairman, in the circumstances where we have endeavoured, and I am grateful for your acknowledgment at the start, as you did mention on the last occasion that Mr. Vaughan wouldn't be here today if it wasn't for my client facilitating the Tribunal in that regard and notifying them that he was going to be in Dublin, which bears out what he said on Day 349 of his

evidence, where he said he wanted Mr. Vaughan to give evidence. But I'd like some clarification from the Tribunal in relation to that matter.

MR. COUGHLAN: Yes, sir, I think that's perhaps a reasonable request in the circumstances. Of course Mr. Vaughan had not given evidence and Mr. Vaughan is now coming to give evidence. Now, if there had been any if there were any provisional findings in respect of Mr. Vaughan, of course in Mr. Vaughan giving evidence, they would stand at naught, obviously, until his evidence was concluded. And that may give rise to further provisional findings, or none, in respect of Mr. Vaughan. And, of course, that may affect potential any other person who may be affected by the evidence, and they, in those circumstances, would, of course, receive any fresh or amended provisional findings in respect thereof. That's the position. It's a simple procedural position, sir.

CHAIRMAN: Very good.

MR. LEHANE: I am very grateful to counsel for clarifying that matter. And you will appreciate, Mr. Chairman, that we didn't receive notification of this in correspondence, so it was incumbent upon me, having heard this, to clarify the matter. And just an additional matter, I know you said, Mr. Chairman, matters in relation to other witnesses would be dealt with by means of correspondence, but just in the context of the Tribunal

MR. COUGHLAN: Sorry, sir

CHAIRMAN: Mr. Lehane, I have made a ruling on this. I'd ask you to take any further matters up with counsel for the Tribunal. If I have to address them, I will. Now, thank you.

MR. LEHANE: It's just in terms of timing, Mr. Chairman

CHAIRMAN: I'd like to note appearances on behalf of Mr. Vaughan and to take up the evidence. If I have to hear you later, in fairness of course I will, Mr. Lehane, but I am anxious to embark.

MR. LEHANE: I know that, Mr. Chairman, and I don't mean to be rude and I don't mean to delay the Tribunal, but you will appreciate, Mr. Chairman, that Mr. Vaughan is just one of a number witnesses whose evidence is the Tribunal is going to hear at this point. We have sought clarification in correspondence as to the precise dates on which these other witnesses will be giving evidence and their identification. And also, Mr. Chairman, in relation to certain other matters relating to the opinion of Mr. Richard Law Nesbitt, which privilege has now been waived as a result of Mr. O'Brien

CHAIRMAN: Mr. Lehane, I am anxious that these matters not be embarked upon, will you please I want to take

MR. LEHANE: Just a clarification to see the likely time-frame in which those decisions

CHAIRMAN: These are matters that my legal team will be only too happy to discuss with you. Now, please, raise them with Mr. Coughlan or any of his colleagues.

MR. LEHANE: Very good, Mr. Chairman, I will, but you will appreciate that these are matters that Mr. O'Brien feels quite strongly about.

CHAIRMAN: Mr. Nathan.

MR. NATHAN: May it please you, sir. I appear on behalf of Mr. Vaughan, instructed by an English firm of solicitors, Max Engel of Northampton. And I respectfully ask, sir, that I may be able to represent my client before you, sir, today and in the next few days.

CHAIRMAN: Yes, indeed. Thank you. And I trust that Mr. Needham's recovery is proceeding relatively satisfactorily?

MR. NATHAN: He is hopping around our hotel quite adequately. I am very grateful, sir.

CHAIRMAN: Very good.

MS. GLEESON: If could just briefly say, I appear on behalf of Michael Lowry. My name is Ellen Gleeson, I appear on behalf of Michael Lowry and also Denis O'Connor.

CHAIRMAN: Mr. Healy?

MR. HEALY: Yes, sir.

CHRISTOPHER VAUGHAN, HAVING BEEN SWORN, WAS EXAMINED BY

MR. HEALY AS FOLLOWS:

CHAIRMAN: Thank you, Mr. Vaughan. Please be seated.

MR. HEALY: Thank you, Mr. Vaughan.

CHAIRMAN: I understand, Mr. Healy, that there is some limited glitch in the reproduction of sound facility service as regards the immediate availability of the

real-time facility. It will certainly be available by lunchtime or before, but I think we can scarcely afford to lose time.

MR. HEALY: Yes, sir.

Q. Now, Mr. Vaughan, you have provided the Tribunal with a signed statement this morning. I think yesterday afternoon your solicitors provided the Tribunal with a copy of your statement subject to, I think, some minor alterations.

What I had envisaged doing today was taking you through your signed statement - and I'll come to a request your counsel has made in relation to that in a moment - and then going through the documents in Book 81A and possibly one or two other documents. I'll explain what those documents are to you. It's mainly your responses to requests for information from the Tribunal, accounts of your meetings with the Tribunal, and accounts of or letters containing accounts you have given of the various property transactions and related matters with which you were dealing. And my reason for doing that is to try to get all of your versions, as it were, and I don't mean that in any discourteous sense, all of your accounts or explanations of the things you were involved in out first, because otherwise we'll be subjected to endless chopping and hopping of books and chopping and hopping of documents when we go to look at the documents in the transactions tomorrow. Do you understand?

Now, I gather from your counsel that you would prefer to

read out your own statement yourself, as no doubt it's what you prepared yourself, rather than have me read it out to you and ask you to confirm it; is that right?

A. That's correct, yes.

Q. I have marked up the copy I received yesterday, so if there are any sort of housekeeping matters as we go along, either you can draw them to my attention or I'll draw them to your attention, is that all right? So, the book of documents I want to bring you through is in a book headed "Book of Responses and Information Provided By Christopher Vaughan." I have a number on mine, 81A. I'll make sure that you have a copy, if you haven't already got your own copy, which may be a marked up "copy" and which you might find it more helpful. Do you have a copy of Book 81A?

A. Mr. Healy, there isn't a copy here, but obviously my solicitor has

Q. Yes, of course, I appreciate that.

A. There is one here, it will make life a little easier if we can cross-reference the documents as we go through.

Q. So then, would you like to take the Tribunal through your signed statement?

A. Mr. Chairman, would you like me just to read it as it is here and just read through it?

CHAIRMAN: I think that is probably preferable in the first instance, Mr. Vaughan, yes.

A. I am not quite sure what speed for your stenographers I should go, but sort of dictating speed on my dictating

machine in the office.

Q. MR. HEALY: I am sure you are very busy and like most lawyers you dictate at high speed. Perhaps a little slower than your dictation speed.

A. Well, if the stenographer can put her hand up or something if I am going too fast.

CHAIRMAN: Well, it is a public forum, so if you keep it at conversational pace.

A. Thank you very much. So, I will now read my statement.

"Christopher James Vaughan, a consultant solicitor to Scott Fowler Solicitors of Old Church Chambers, 23 Sandhill Road, St. James, Northampton, NN5 5LH, will say as follows:

"I am a solicitor of the Supreme Court of judicature, having been admitted to the Roll of Solicitors in 1973. I am currently practicing as a consultant solicitor to Messrs. Scott Fowler of Northampton.

"2. I am a notary public, having been granted a faculty in 1978. I'm a past president of the Notaries Society and the current Secretary of the Notary Society"

MR. NATHAN: May I just interrupt very briefly and simply say that maybe we can provide the transcribers with a copy of the witness statement, because that will assist them in a sense of (A) being able easily to follow what's going on and also much easier then for them to make sure they have got it right.

A. "I have acted as solicitor for the purchaser in three transactions in which I understand the Tribunal is

interested. At the time of all three transactions I was a sole practitioner solicitor at the same address, and also the Old Rectory, Haversham, Milton Keynes, where my wife, Debbie, who is also a solicitor worked within the practice.

"The three transactions are:

"3.1. The acquisition of Doncaster Rovers Football Club, DRFC, by share purchase.

"3.2. The acquisition of the freehold of Hilltop Farm, Glapwell, near Mansfield, "Mansfield", and

"3.3. The acquisition of the freehold of St. Columba's Church, Handforth, near Cheadle, "Cheadle".

"All three transactions, DRFC, Mansfield and Cheadle were introduced to me by Mr. Kevin Phelan, who is an Irish property entrepreneur. During the period he instructed me he had an address in Northern Ireland, but during that period he spent a considerable amount of time in England and had an office in Northampton. He introduced me to a number of transactions, mainly involving conveyancing in which I specialised then (as I do now.)

"4. I was first introduced to Kevin Phelan in late summer 1997 by Mr. Simon Hussey, who is an independent financial advisor based in Northampton and who is well-known locally. Prior to that time, I had never met nor had any knowledge whatsoever of Kevin Phelan.

"5. One evening in late summer 1997 (as I recall), Mr. Hussey telephoned me at home asking me to give some urgent advice to Kevin Phelan and two others who, he told

me, were travelling down the M1 motorway from Leeds following a meeting they had had with representatives of Hull Football Club, which they were negotiating to purchase.

"6. I met Kevin Phelan, Paul May and Bill Maher, none of whom I had ever met before, at The Stackis Hotel at junction 15 of the M1 that evening. I was accompanied by Michael Reid, who is a chartered accountant.

"7. We discussed the Hull City Football Club purchase transaction for about an hour. Later I was instructed by Kevin Phelan to act for him in the purchase of the Hull City FC. I cannot now remember the name of the purchasing vehicle for Hull. However, I recall that during the transaction Kevin Phelan brought in as a partner to the transaction Mr. David Lloyd (the former tennis player), whom I have never met, and all files were passed to his solicitors, Cameron McKenna. I do not know what happened to the transaction after I ceased to be involved with it.

I have not met nor had contact with Mr. Maher since 1998.

"8.1. In January 1998 Kevin Phelan made contact with me again by telephone and informed me that he and a man called Michael Cambridge, whom I have never met, had agreed to purchase the shareholding in DRFC from a Mr. Richardson, and he sent me through some heads of terms relating to that transaction. I no longer have the heads of terms, since they have disappeared during the period after I handed all the files over to Craig Tallents of Morton Thornton,

chartered accountants, who in turn passed them, I understand, to Peter Carter-Ruck & Partners, solicitors, who then passed them to solicitors in Ireland, William Fry or LK Shields. Eventually these files were returned to me incomplete and in a totally different order of files.

"8.2. See tabs 1-16 of Supplemental Book of Documents, which I refer to as "SB", and Tab 5A of Book 82, for the final version of the purchase contract.

"8.2.1. The initial transaction was for Kevin Phelan to acquire the shares in DRFC under the name of his firm or company M&P Associates (Maher and Phelan) for 3.7 million, and to sell the whole company to a Mr. Doherty for  $\text{€}6,000,000$ . This transaction never proceeded see Tab 16 of SB.

"8.3. Instead the purchase proceeded using Westferry as the purchasing vehicle, and I received a contract (Tab 5A, Book 82) from Messrs. Reg Ashworth, solicitors, acting on behalf of the seller.

"8.4. I principally received instructions from Kevin Phelan, but from time to time also from Paul May, up to exchange of contracts on 8th May, 1998. The purchasing company was Westferry, which at that time I understood to be controlled by Kevin Phelan.

"8.5. The purchase of DRFC was completed for  $\text{€}3.7$  million on the 18th August, 1998, with the benefit of a loan from Anglo Irish Bank for whom Theodore Goddard acted (see Tab 5, Book 81 for my letter to Michael Black of Theodore

Goddard, and Tab 23, Book 82, for the facility letter November 1998). I do not believe that I ever saw this particular letter, it was in the set of documents recently sent to my solicitors by the Tribunal. I do not believe that I ever saw any other or earlier facility letter, although one can see that there must have been one.

"8.6. The nature of this transaction was a fairly complicated property transaction, in that DRFC's football ground was very rundown, but was located in an area capable of substantial residential development, since the club had a long lease over its playing ground and building and also a lease in respect of the car-park. Doncaster Metropolitan Borough Council were the landlords in respect of both. The Council was willing to relocate the club (i.e. the playing element) and this would enable the club's ground and car-park to be redeveloped by a commercial developer in conjunction with the Council. Mr. Kevin Phelan's interest was solely in the property side of the transaction, but anyone whom I met in relation to the transaction became absorbed by the playing element and the notion of being involved in the management of an English football club with a historic name. In the period between exchange of contracts (8th May, 1998, and completion Tuesday, 18th August, 1998) I became aware of the involvement of Mr. Aidan Phelan in the transaction as the person who was arranging the finance and who, I then appreciated, had a substantial interest in the transaction. I did not meet

Aidan Phelan until some time in October/November 1998. The meeting took place in the director's room at the DRFC ground:

"10. After the completion of the purchase of DRFC, the 'Playing Element' of DRFC was sold to a company called Patienceform Limited run by a Mr. John Ryan. As regards that part of the transaction, I dealt with Andrew Smithson of Hill Dickinson of Chester, who acted for John Ryan/Patienceform. Both Aidan Phelan and Kevin Phelan instructed me throughout the sale of the 'Playing Element'. As a result, Westferry was left with the ground and car-park only. Currently Westferry holds the ground lease only, the car-park lease having expired.

"11. At no time throughout the whole process of the acquisition of DRFC was I aware of the existence or involvement of either Denis O'Brien Senior or Denis O'Brien Junior. Although the name Denis O'Brien is referred to in the Anglo Irish Bank facility letter (Tab 23, Book 82) I do not believe that I ever saw that particular letter, and even if I did, the name would have meant nothing to me at that time in any event.

"12. It was not until a meeting of the 15th March, 2001, when I met Michael Lowry, Aidan Phelan, Helen Malone and Kevin Phelan briefly in Aidan Phelan's offices in Clanwilliam Terrace, Dublin, that I became aware of the involvement of the O'Brien family interest in the DRFC transaction.

"13. I should add that I have been served by the Tribunal with a total of 13 large ring-binders of transcripts and evidence relating to the Tribunal evidence. Having looked through those documents, I have now become aware of a very large number of negotiations as to the purchase and the issues relating to the financing of DRFC, Mansfield and Cheadle, of which I was totally unaware at the time when I was dealing with these matters.

"14. From January 1998 I was employed by Kevin Phelan solely to deal with the legal formalities of acquiring the shares in DRFC from the shareholder and the legal consequences of the purchase. I was not involved in any other element of the transaction, apart from (in due course) being involved in preparing the legal documentation relating to the sale of the footballing 'elements' to John Ryan's company Patienceform Limited.

"15. In March 1998, which was about a month after I was originally instructed by Kevin Phelan to act on the acquisition of DRFC, I was instructed by Kevin Phelan to act on the purchase of the freehold of Mansfield.

"Mansfield Site - Sequence of Events:

"15.1. The contract was received by me sometime in March 1998, but the purchase did not then proceed, so far as I was concerned, until September 1998.

"15.2. The next step was that I received a letter dated 8th September, 1998, from Mr. Dawson of Harrop White Vallance & Dawson, solicitors for the seller, asking if I

had heard from my client.

"15.3. 15th September, 1998, there was a substantive reply from me to Mr. Dawson. After the 8th September, 1998, I had been instructed by Kevin Phelan that the purchaser was now to be Abbey Green Consulting Limited, a company which (he told me) belonged to Mr. Michael Lowry, a member of the Irish Parliament. I duly so informed the seller's solicitors.

"15.4. At my meeting with Mr. Lowry and Kevin Phelan on the 23rd/24th September 1998 at my office (see below), I was instructed by Mr. Lowry that he was the purchaser of the property. I do not know whether Mr. Lowry had yet inspected the property at the time of my September 1998 meeting with him.

"15.5. The contract to purchase Mansfield was exchanged on the 1st March, 1999.

"15.6. The completion eventually took place on the 26th March, 1999, after service of a notice to complete from the seller. That was the end of the purchase transaction so far as I was concerned, apart from fact that I continued to hold a sum of £44,500 on Mr. Lowry's account.

"15.7. My records show that on the 7th March, 2002, I sent the original papers to DLA Solicitors, in Manchester, and I no longer have them.

"16. The first time I met Michael Lowry in relation to the Mansfield project was on 23rd/24th September, 1998, when a meeting took place at my offices in Northampton -see his

plane ticket, Tab 11, Book 82.

"17. There is a minor discrepancy between my version of the date of my first meeting with Michael Lowry and Michael Lowry's version of the meeting. What there is no doubt about is that we met in my office on the morning of the 24th September, 1998, and discussed the purchase of Mansfield. What is in dispute is whether we met in my office, as I maintain, or in a hotel, which Michael Lowry maintains, the night before, 23rd September, is probably irrelevant. But I am quite positive that we did meet late afternoon/early evening on the preceding day, and detailed open discussions took place between myself and Kevin Phelan, and possibly Mr. Paul May, in the presence of Michael Lowry about the outstanding issues that needed to be resolved as to the acquisition of DRFC (As set out in my letter of the 23rd August 1998 - Tab 1, Book 81.)

"18. I have mentioned in

(a) correspondence and

(b) possibly in a telephone conversation with Kate McMillan

of Peter Carter-Ruck & Partners that the evening meeting

took place at Paul May's house at Shutlanger,

Northhamshire. Kevin Phelan and Michael Lowry came to my

office in Northampton on the evening of the 23rd September,

a discussion took place about DRFC. Because of the

lateness of the hour, Kevin Phelan and Michael Lowry left

and went for a meal somewhere, possibly via Paul May's

house. I did definitely not accompany them. I was not

involved in any further discussions with them that evening.

"19. The following day, Michael Lowry and I went to Leicester. During the course of the car journey we chatted about many topics, and Michael Lowry was obviously aware from the conversations that I had had with Kevin Phelan in his presence as to the post-completion problems with the acquisition of DRFC.

"20. The purchase of Mansfield was completed on the 26th March, 1999, in the name of Michael Lowry.

"St. Columba's, United Reform Church, Cheadle - Sequence of Events:

"21.1. My first involvement was in receipt of a letter dated 13th July, 1999, from Towns Needham Solicitors in Manchester, who acted on behalf of the seller, indicating that they were instructed and that they were preparing a draft contract. The buyer was referred to as "Messrs. Gameplan Limited." Gameplan was a company owned by Kevin Phelan, and at that time I was speaking to him on an almost daily basis about his various projects. Gameplan Limited is a company which I originally purchased off the shelf on instructions from Kevin Phelan, and I was (for a short time) the Company Secretary.

"21.2. 20th July, 1999, contract and package of documents arrived from Towns Needham. At this stage, the identity of purchaser was not known.

"21.3. 29th July, 1999, my file note - "Speaking to Kevin Phelan 'He is speaking to Michael Lowry on Wednesday as to

funding." This was the first occasion on which I was informed by Mr. Phelan of any involvement of Mr. Lowry.

"21.4. The next relevant event was a letter dated 27th August, 1999, from me to Kevin Phelan asking for the identity of the purchaser. I was told by him that it would probably be either Michael Lowry or Catclause Limited, a company which I had earlier acquired on Mr. Phelan's instructions, and in respect of which (again on his instructions) its two directors were Mr. Lowry and his daughter was the Company Secretary, as can be seen from the public records at Companies House.

"21.5. On 1st September, 1999, I made a file note of a discussion with Mr. Oldham of Towns Needham, the seller's solicitors. He was very, very unhappy that matters were not progressing as quickly as Mr. Phelan had promised. Mr. Oldham was a trustee of the seller church and it was apparent to me that he took the whole matter very personally.

"21.6. In response I spoke to Kevin Phelan, who was acting for Mr. Lowry, who told me to try and delay until he had managed to find a purchaser to whom the property could be sold. I then spoke to Mr. Lowry, who said that funds would not be available until November.

"21.7. This was followed by a letter dated 2nd September, 1999, from me to Towns Needham informing him that 'The purchaser of the property will be a newly set up company called Catclause Limited. Company number 3763103.' My

client thus became Catclause as Mr. Lowry's 'Vehicle.'

"21.8. On the 7th September, 1999, I had a discussion with Mr. Kevin Phelan and informed him that the seller wanted a deposit of 10%, i.e.  $\frac{1}{2}$ 44,500.

"21.9. On the 14th September, 1999, contracts were exchanged with Catclause Limited as the purchaser, using Mr. Lowry's surplus from his purchase of Mansfield.

"21.10. I had expected to be put in funds in time for the completion date, 30th November, 1999, but that did not take place, which caused me great anxiety. On the 1st December, 1999, notice to complete served by Towns Needham on me and Catclause expiring on 13th December, 1999. I sent Kevin Phelan a long fax ending with me asking him to confirm that he had kept Mr. Lowry informed. At that stage I was having daily phone calls with Mr. Kevin Phelan, Mr. Lowry's agent.

"21.11. On 9th December, 1999, I sent a fax to Kevin Phelan and Mr. Lowry warning them both that the notice to complete expired on the 13th December and the purchaser, Catclause Limited, was at risk of being liable to forfeit the deposit of  $\frac{1}{2}$ 44,500. On the 13th December I sent a further chasing fax.

"21.12. On Monday, 13th December, 1999, I received a telephone call from Aidan Phelan/Helen Malone, who told me that they were working on sorting out the finance. On the 14th December I sent a fax to Aidan Phelan/Helen Malone confirming our telephone conversation.

"21.13. On 14th December, 1999, the day after the notice

had expired and after I had spoken to Aidan Phelan/Helen Malone, I sent an apologetic letter to Mr. Oldham, the seller's solicitor, explaining the situation.

"21.14. On 17th December, 1999, I received a telephone call from Michael Tunney of GE Capital Woodchester Bank Limited, who informed me that his bank would be providing a transfer of the remaining part of the purchase monies which I needed to have. I had never spoken to him before and had no previous knowledge of him.

"21.15. On the 20th December, 1999, having heard no more from Mr. Tunney or his bank, I faxed a letter to Mr. Tunney confirming what he had told me and my expectation of receiving the required funds. I copied my fax to Aidan Phelan and Helen Malone.

"21.16. On 21st December, 1999, my bank notified me of the receipt of the requisite funds from this bank. Completion took place immediately, as set out in the letter from Towns Needham of 22nd December, 1999. As will be appreciated, Christmas was upon us and that added considerable pressure, since 22nd December, 1999, was my last working day before Christmas. I returned to work on 4th January, 2000.

"21.17. At that time I was still in regular contact with Mr. Kevin Phelan and assumed that he was in contact with his principal, Mr. Lowry, over the state of affairs. He gave me to understand that he was endeavouring to find a developer/purchaser for the Cheadle property.

"21.18. But the circumstances in which completion took

place were, to my eyes, very unsatisfactory. I had received no paperwork at all from the bank which was funding the purchase, whereas normally I would expect to be instructed to act both for the purchaser and the funder, with a view to protecting the funding body's financial interest by way of security, yet there was nothing. I was also now quite unsure whether it was right for me to have the property transferred at the Land Registry into the name of Catclause Limited, since the bank might require something different to be done. I also had to have regard for the financial interest of Mr. Lowry, whose personal monies amounting to £44,500 in my ledger account, had been used for the 10% deposit in respect of a contract where Catclause Limited was the contractual purchaser.

"21.19. It is often the case that the actual transferee is changed by the time of the completion; and yet I had no definitive instructions and no apparent chance of getting any in the time left before Christmas.

"21.20. I discussed this problem with my wife (who is a practicing solicitor) and we agreed that the prudent course would be for us personally to be the transferees and to hold the property temporarily in our joint names as solicitors to hold for the benefit of the bank and whomsoever I would be instructed should be the actual transferee. That is what we did, and in due course the Land Registry completed its registration in our joint names.

"21.21. There is a file note undated, but obviously early January 2000, indicating that I had a telephone conversation with Michael Tunney of GE Capital Woodchester Bank telling me that Aidan Phelan was now to be the 'Owner' of the site.

"21.22. I still had personal concerns about this because there appeared to be a number of possible purchasers: -

1. Michael Lowry personally.
2. Catclause Limited.
3. Aidan Phelan.
4. A combination of all three.

"I still had no documentation whatsoever from GE Capital Woodchester Bank and I never did in the event of receiving any documentation at all from the bank. So I could not register a charge to protect the bank prior to the date when my paper work when the paperwork in my file was passed over to Martin Hallam at DLA in Manchester on the instructions of Aidan Phelan. (As I explain below, Michael Lowry continued to be involved.)

"23. Having made a decision immediately after Christmas to put the property into the joint names of myself and my wife as bare trustees, we then held it until we were eventually instructed by Martin Hallam of DLA solicitors to transfer the property into the name of Aidan Phelan.

"24. There is a letter on file dated 7th March, 2002, to Martin Hallam at DLA sending him all the deeds relating to both St. Columba's Church and Mansfield. I believe that is

where the documentation has gone relating to both sides,  
apart from any copies which I still have on file.

"25. I deal with problems which occurred in and after  
summer 2000 below.

"Other transactions with Kevin Phelan:

"26. I should add that Kevin Phelan also introduced me to  
various other transactions. Some 10 years on I cannot  
recall them all, but I would estimate that I had at least  
20 files which were opened at various stages during our  
relationship. Many of those files had only one or two bits  
of paper in them as potential 'deals that Kevin Phelan had  
negotiated' that in fact came to nothing.

"27. I do not in this statement intend to go through all  
the correspondence that I have entered into with the  
Tribunal and with the firms of solicitors and accountants  
who are representing various parties at the Tribunal. I  
first learned of the existence of the Tribunal on or about  
15th March, 2001.

"28. I am attending this public hearing as a voluntary  
witness, because in February 2009, when I was travelling to  
Dublin, I was informed that the Tribunal had issued a  
Witness Summons calling me to attend. On my arrival from  
England (where I am well aware that I am not a compellable  
witness without an English court order) I voluntarily went  
to the Tribunal's Secretariat office in Dublin Castle and  
spoke to the staff there and collected the summons myself,  
without it having to be served on me. By letter dated 20th

February, 2009, the Tribunal agreed to pay my costs of attending.

"29. In fact, my cooperation with the Tribunal goes back to 2001, shortly after I first learned of the existence of the Tribunal.

"30. On 30th May, 2001, I voluntarily attended at Dublin Castle bringing with me the original files relating to the only transactions in respect of which I acted for Mr. Michael Lowry, namely the purchase of properties in Mansfield and Cheadle. I also took with me files relating to the purchase of a property in Luton in respect of which the Tribunal's representatives told me that they were not interested. I had already photocopied and sent by DHL to the Tribunal the Mansfield and Cheadle purchase file.

"31. I attended before the Tribunal team for in excess of two hours. The meeting was not recorded by a stenographer and I was not aware that supposedly detailed meeting notes were being kept (although in the latest file served on me by the Tribunal there is a single handwritten A4 sheet of paper, which are apparently the notes of the meeting). I was there to assist the Tribunal and I attended after I had received permission to do so from both Mr. Lowry and Mr. Aidan Phelan.

"32. At no time was DRFC mentioned and I had no reason in my mind to check that DRFC was relevant at all, since Mr. Lowry had not been a party to the purchase so far as I knew.

"33. A short time after 30th May, 2001, I received from the Tribunal a memorandum or note of a meeting, and I wrote to the Tribunal objecting to the form of the note and its contents, pointing out that if there was to be a note of the meeting, it should be an agreed note with an opportunity for me to make comments, so an agreed note of the meeting could be produced. The Tribunal's note was not, in my view, a verbatim and thus accurate record of the meeting.

"34. From the date of my meeting at Dublin Castle on the 30th May, 2001, until September 2004, I was in communication from time to time with the Tribunal and with the solicitors acting on behalf of various parties involved with the Tribunal when they wished to have information from me.

"35. By 2002 (as I now understand) the Tribunal decided that it wished to investigate the acquisition of DRFC by Westferry Limited. As a result of the Tribunal investigating the acquisition of DRFC by Westferry, all my files were passed to Morton Thornton, chartered accountants, who in turn passed them to Peter Carter-Ruck, solicitors, who then passed them to William Fry, solicitors acting for Denis O'Brien Junior, who copied all the files and passed them to the Tribunal. (The files were passed to Peter Carter-Ruck, solicitors, initially for the purpose of dealing with the litigation commenced by the sellers of the DRFC shares and the purchasers.) I eventually received

back a variety of documents, but they were not in the same order as when I had originally given them to Morton Thornton. I am unable to say whether or not I received back my entire files. My impression is that some documents may have been mislaid.

"36. By this stage I had become aware that the inquiry had become politically charged, and although I was a competent witness, there was no good reason for me to become involved in Irish politics.

"37. However, it was agreed through my solicitors, Max Engel of Northampton, that the Tribunal team would come to London and I would be interviewed with a stenographer present (this time) to record that interview accurately.

"38. The interview does form part of the Tribunal documentation and lasted some three hours - see Tab 32 of SB.

"39. Following the 2004 meeting, up to the present day, both myself and my solicitor, Duncan Needham, have tried to assist the Tribunal with every request which it has made for further documents. Some documents, unfortunately, have gone missing or may possibly have been destroyed. As will have been appreciated from this statement, all my files relating to these three transactions have been out of my possession for considerable periods of time with other firms of solicitors and accountants, with the inevitable result that some documentation is no longer available.

"Notes Made By Peter Carter-Ruck & Partners:

"40. There is one aspect of the DRFC acquisition which I was not involved in, and that was the litigation and mediation involving the outstanding issues in the share purchase agreement by Westferry to acquire the majority shares in DRFC. My only involvement in that process was that I gave some background information to Miss Kate McMillan of Peter Carter-Ruck & Partners over the telephone with regard to the events leading up to the completion of the contract for the purchase of shares in DRFC by Westferry Limited. It was only very recently that I have been given by the Tribunal and that I have seen a photocopy of her handwritten notes of the conversation I had with Kate McMillan (see Tab 32 and 31 of SB.) They are not a complete record of what I told her. I should add, however, that I have never met Miss McMillan or her colleague, Ruth Collard of Peter Carter-Ruck & Partners.

"41. Out of those manuscript notes Kate McMillan prepared a draft statement (Tab 17, book 81) which was then sent to me for my approval and signature in connection with intended criminal proceedings initiated by the purchasers arising out of the mediation proceedings for attempted blackmail, which were intended at that time to be initiated by the purchasers arising out of the mediation proceedings.

"42. I started to read the draft statement prepared by Miss McMillan, but rejected it as not reflecting my view of events. I started to make changes and then gave up. That statement was never completely redrafted to my satisfaction

and no statement has ever been signed by me relating to the mediation or matters arising out of those proceedings. So far as I know, after an initial visit to and discussions with the police, the complaint did not proceed further.

"The Relevant Issues Before the Tribunal (so Far As I Know):

"43. Arising out of my and my solicitor's communications with the Tribunal, there would appear to be the following matters that the Tribunal wishes me to deal with in further detail and I want to correct the draft Tribunal findings served on me.

"(A) The different versions of the two letters dated 12th July and 5th September, 2000.

"(B) My dealings with Mr. Lowry and, in particular, the event surrounding the meeting which I had with Mr. Lowry in September 1998 and my letter to him dated 25th September, 1998.

"The Letters Letter 12th July, 2000:

"44. There are two sets of letters to which I wish to refer. The first set is within the Tribunal documentation and lettered A to C (Book 81, Tab 45) as follows: -

"44.1.

(a) File copy of my letter 12th July, 2000, to Kevin Phelan.

(b) Top copy of letter A.

(c) Different top copy version of my letter dated 12th July, 2000, to Kevin Phelan.

"44.2. Letter A was on my file relating to the acquisition of St. Columba's Church, Cheadle, which was provided to the Tribunal prior to my meeting with the Tribunal on 30th May, 2001.

"44.3. Letters B and C are photocopies only of the original letters. So far as I am aware, no originals have ever been produced to the Tribunal, and they can only have come from the file of Kevin Phelan.

"44.4. Letters A and B are identical.

"44.5. Letter C has a fax number at the top and two additional paragraphs compared with letters A and B.

"44.6. Firstly, I accept that each of letters B and C bear my signature and so must have been signed by me. Each of them is addressed to Kevin Phelan, with whom I was at that time in almost daily contact both by telephone, fax or letter over a number of matters on which he was instructing me on behalf of his clients.

"44.7. Secondly, letter C looks as though it was written first and was replaced by letter B. Each of the letters has the same typing error in line one of paragraph two.

"44.8. At that stage of the Cheadle matter, July 2000, my wife and I were still holding the property as trustees and we had not yet transferred it to Aidan Phelan, but I was well aware by then that it was going to be transferred to Aidan Phelan and that Mr. Lowry's interest in the property was confined to the fact that his money, i.e. £44,500, had been used to pay the deposit.

"44.9. At that time also, Mr. Kevin Phelan had been continuing to claim that he was looking for a purchaser/developer but without any success. Mr. Aidan Phelan was becoming worried and suspicious about the bona fides of Mr. Kevin Phelan over this purchase, since it looked very much as if he had recommended the purchase of a property which was not going to be capable of being sold with any profit. Offers might have been made, but none of them proved to be worth more than the writing paper on which they were written. One of the reasons why the meeting took place at Jury's Hotel, Dublin, with Mr. Aidan Phelan, Helen Malone and Mr. Lowry was because of Aidan Phelan's deepening concerns (Book 81, Tab 37.)

"44.10. To the best of my recollection, I realised that the original letter C contained two mistakes. Although there was no one other than Mr. Kevin Phelan who had received the letter and he, himself, would not be misled by it, but I did not want to lay myself open to any criticism by Kevin Phelan or anyone else later on.

"44.11. Firstly, the paragraph at the end starting 'I seem to recall...' is completely wrong. It had nothing to do with Cheadle at all, and I had, I fear, confused Cheadle with a completely different transaction. Secondly, the reference to 'Our client' in paragraph 2 of letter C was, by that date, too vague, since my wife and I were holding as trustee for the purchaser and we knew and recognised that that was Aidan Phelan and was no longer Catclaus

Limited (as set out in the contract). It seemed to me to be important to be clear about it in any letter that I wrote.

"44.12. I cannot now recollect whether it was I who first realised these points or Kevin Phelan who first pointed them out to me when he received letter C from me by fax on 12th July, 2000. I had my secretary make the appropriate changes to the letter and I signed it and sent off a new version (II letter B) to Kevin Phelan on (I believe) the same day, 12th July, 2000. The changes were (1) the deletion of the last paragraph, and (2), the change of the words 'Our client' to 'Aidan Phelan'. Aidan Phelan was not a mutual client of Kevin Phelan, whilst Catclause Limited had been.

"44.13. I would have torn up the file copy of the original letter, letter C, and told Kevin Phelan by telephone to ignore the original version. Only the file copy of letter A was placed on the file. If I try to recall my own practice, I do normally do that in order to avoid confusion. I would only keep the file copy of such a completely replaced letter if it was important for me to keep for some reason (e.g. to remind me about something or because I felt that I needed to have a record of it.) The original letter C had taken only a minute or two to dictate and it is an easy mistake to make.

"44.14. For the avoidance of doubt, I will explain that I did not suppress the existence of letter C with a view to

concealing its existence. It was written and sent a year or so before I ever knew of the Tribunal's existence or saw the Tribunal's representatives in 2001, when I brought with me all the file that I had in respect of Cheadle.

"Letter Dated 5th September, 2000 (Book 81, Tab 45):

"45.1. Letter D is a file copy of a letter dated 5th September, 2000, which was on my file relating to St. Columba's Church, Cheadle. Letter E is the top copy of letter D and is the same as letter D.

"45.2. Letter F is a top copy of a different version of letter E.

"45.3. Letter F contains two paragraphs which do not appear in letters D and E, namely the second paragraph starting 'What I would like to do...' and the last paragraph starting 'I have not written to...'. In addition, in letter F there is a reference to a company search with a handwritten asterisk and a handwritten note 'To follow.'

"45.4. Like the letter of the 12th July, 2000, the letter of 5th September, 2000, was addressed only to Kevin Phelan, and the two versions of the top copy can only have come from his file. Once again, I understand that the Tribunal has got a photocopy of the two top copies and no original version of the top copy of this letter.

"45.5. By this stage I had had a meeting in August at Jury's Hotel with Aidan Phelan, Helen Malone and Mr. Lowry. All of them had expressed their concern, and Aidan Phelan

stepped in to take charge, because the resale of his property was just not taking place and the purchase offers which had been produced by Kevin Phelan were under suspicion. By 5th September, Kevin Phelan had produced a written offer from a company called Thistlewood Estates, which was conditional upon planning consent for a residential development being obtained. (At the time, I thought this was a genuine offer and we were all pleased that it had been received.) Subsequently, when I was instructed to obtain an independent appraisal and valuation of the property from Messrs. Chestertons, it emerged that there was never any prospect of obtaining planning permission for the residential development of this site. So far as I am aware, the 'Offer' from Thistlewood Estates never proceeded beyond the first letter.

"45.6. At one stage my solicitor's suspicions about Kevin Phelan were so strong that he thought that letter F might be a forgery, but I think he was wrong about that. The signature appears to be mine and the words 'To follow' are also in what I believe is my handwriting. I have not, however, seen the original of letter F, nor has the Tribunal.

"45.7. With regard to the paragraph starting 'What I would like...' there is a mistake, since it refers to 'Michael wants to own the property in his own name for a month.' This was, in fact, a mistake on my part, since it was a reference to the position with regard to the tax of Aidan

Phelan, and not of Michael Lowry. There was never any real question of Michael Lowry personally owning Cheadle, originally Catclause Limited had been acquired as his family's intended vehicle for acquiring the Cheadle property, but it was not transferred to that company for the reasons I have already explained. The question of the identity of the intended transferee had been resolved long before this letter was dictated by me for my secretary to type. The intended transferee was known to be Aidan Phelan, and it was he or Helen Malone who had referred to his tax requirements, I believe, at the meeting at Jury's Hotel in August 2000. My wife and I still continued to hold the title of the property in our own names.

"45.8. That Mr. Lowry had an interest in the Cheadle property (or at least its proceeds of sale) as I have explained above, was never in doubt in anyone's mind, since it was his money that funded the deposit for the purchase in the first place. It would have been, however, obviously appropriate that the correct position should be set out in the letter and not a mistaken one. If I look back, this letter would have taken me only a very short time to dictate, and it was an easy mistake for me to mix-up the names, given that Mr. Lowry had originally intended to be the purchaser through his company Catclause Limited.

"45.9. The same applies to the last paragraph. The loan had been taken out (so far as I was aware) by Aidan Phelan, not Mr. Lowry. That is what Mr. Tunney of GE Capital

Woodchester Bank had told me in April 2000 (Book 81, Tab 35.) I appear to have muddled up the names when I dictated the letter.

"45.10. Moreover, once one realised my mistake over the names in the last paragraph ceases to have a meaning or purpose in this letter, as both paragraphs were removed from the replacement letter D and E which I must have asked my secretary to retype for me.

"45.11. As for the fact that the replacement does not repeat 'To follow', I can only think now that between the time of sending the first version and sending out a corrected version, I had obtained a copy of the missing company search. At that time the computer system at Companies House for remote accessing and printing of records held there was relatively new and notoriously fickle. One could often see the records on screen and then find that it took several 'goes' or a lapse of several hours before one could get the documents to be printed out in one's own office.

"45.12. Again, I would have torn up the original version once it had been replaced. I would also have told Kevin Phelan to ignore my first version.

"My First Meeting With Mr. Lowry:

"46. I should first remind the Tribunal that I had started to act as solicitor for Mr. Kevin Phelan in 1997. He acted as an agent and used to try to put together financially interesting property transactions by way of investment.

These would typically involve a purchase of one or more properties which he perceived to be under valued and which had an unexploited development value; such properties could then be sold on to a developer with or without planning permission at a profit. Such transactions are well-known, but the skill lies in the ability of the agent, and the profit to be made is usually dependent on his commitment and judgement. At that time, 1997 and onwards, Mr. Kevin Phelan lived in Northern Ireland but had an office in Northampton, a town where I had my own office. The transactions which he brought to me for legal work were all in England, save for a couple in Ireland, which I had to explain to him I was not competent to deal with.

"47. One such transaction was the purchase of Doncaster Rovers Football Club (DRFC), which followed relatively soon after his unsuccessful attempt to assemble a 'deal' for clients for the purchase and onward sale of Hull City Football Club. I have already described the DRFC transaction above. It was quite complicated so far as the legal work was concerned. The purchase contract was completed on 18th August, 1998, by Westferry Limited (my client), two of the directors of which were at that time Mr. Paul May and Mr. Kevin Phelan. Following completion, there were a large number of issues which needed to be dealt with from my point of view, and I set them out in my letter dated 23rd August, 1998, to the directors (File 81/Tab 1).

"48. The next day, 24th August, 1998, I had a meeting with Paul May to discuss my letter (Supplemental book, Tab 22), but then I heard little more from either Mr. May or Mr. Kevin Phelan. Although I was accustomed by then to have Kevin Phelan on the telephone several times a week, I had not been given any instructions about several of the matters referred to in my letter and which were becoming quite pressing by mid-September 1998, almost a month after my letter of the 23rd and meeting with Paul May of the 24th August.

"49. I should add that I was also aware of the involvement of Mr. Aidan Phelan in the DRFC transaction. Prior to completion, I had understood him to be the individual who was organising the finance for the purchase, and it was clear to me that Kevin Phelan and Paul May took directions from him.

"50. Various things listed in my letter of the 23rd August, 1998, were more pressing than others. I also note from my letter that Kevin Phelan had told me that he was trying to get investors interested in running Doncaster Rovers, the football club, itself as opposed to the property side of the transaction, where it was now a question of sorting out the leases, negotiating with the landlord, Doncaster Council, over these leases and the relocation of the football club to its intended new ground, and concluding a sale to its developer. The football club itself needed a cash injection. Also, the various

retention issues relating to the acquisition of the football club, which were substantial in total, needed to be dealt with.

"51. I also particularly wanted to know how Westferry Limited was proposing to deal with the £250,000 payment which it would be due to make to the DRFC share vendors in December 1998. I felt quite strongly that this had been a last minute demand made by the vendors, which was totally unjustified, and I had been asked to consider how a legitimate way could be found to prevent them from getting their hands on an unjustified lump sum. (That suggestion of mine, in due course, became one element of some bitter litigation later on between Westferry Limited and Mr. Richardson and his colleagues and an accusation of attempted blackmail by Mr. Richardson and his colleagues which I was not privy to.)

"52. On or just before the 23rd September, 1998, Mr. Kevin Phelan told me that he would be coming to my office in Northampton to introduce me to a client of his, Mr. Michael Lowry, for whom I was by then instructed through his company, Abbey Green Consulting Limited, in relation to that company's intended purchase of the Mansfield property. Mr. Kevin Phelan knew the principal director of the vendor company personally, I believe.

"53. By early September 1998, the Mansfield transaction had not moved smoothly forward as the vendor had expected, and on the 8th September, 1998, I was asked by the vendor's

solicitor, Harrop White Vallance and Dawson, whether I had yet heard from the purchaser over a question raised by my client relating to the proposed option which was part of the intended agreement. By 21st September, however, matters had been moving forward towards a conclusion. By 23rd September, 1998, (A) Mr. Kevin Phelan had made an appointment to come and see me with Mr. Lowry who (he told me) was coming over from Ireland and would be accompanying him, and (B), to discuss the DRFC transaction and my letter of the 23rd August to him and Mr. May.

"54. On that day (A) I told Mr. Dawson, the Mansfield vendor's solicitor, that I would be seeing my client that evening (see their letter dated 23rd September, 1998, to me) and (B), I sent a fax to Mr. Aidan Phelan with an agenda of points I wanted to discuss. (As it turns out, Mr. Aidan Phelan said later he did not get my fax; it had an incorrect fax number on the letter.)

"55. I was particularly pleased that Mr. Kevin Phelan was coming to see me, because I wanted to know some answers to my letter of the 23rd August, 1998, in relation to the DRFC transaction.

"56. Having looked at my own file on the Mansfield purchase (e.g. letter from the vendor's solicitors dated 23rd September, 1998), and also having seen for the first time the 'stub' of Mr. Lowry's air ticket among the Tribunal's documents, I appreciate and accept that for sometime I have made a mistake as to the date of my first

meeting with Mr. Lowry. That took place in the early evening of Wednesday, 23rd September, 1998, not 24th September. Mr. Kevin Phelan came (possibly with Mr. Paul May and) with Mr. Lowry to my office sometime around 6 p.m..

"57. My instructions from Mr. Lowry's company had, until then, always been given to me through Mr. Kevin Phelan as the agent, and I had not personally spoken to Mr. Lowry, nor met him at all, up until 23rd September, 1998.

"58. Because Mr. Kevin Phelan and also possibly Paul May were there, Mr. Kevin Phelan and Mr. May (assuming he was there) and I talked at that meeting in some detail about the DRFC transaction. Mr. May and Mr. Phelan did not appear to mind that they were talking to me about it in front of Michael Lowry, a client of Mr. Kevin Phelan who did not personally have anything to do with the DRFC transaction. At the meeting, as I recall, Mr. Lowry did give some input into the discussion in a general way. I had understood from Mr. Kevin Phelan prior to the meeting that Mr. Lowry was a successful businessman in his own right before he had gone into politics.

"59. It was not a matter for me to stop them talking about DRFC in front of Mr. Lowry. They did not give me any indication that they regarded anything in my letter of the 23rd August as sensitive such that it could not be discussed in front of Mr. Phelan's client in relation to another transaction. And I did want Messrs. May and Phelan

to tackle and respond to my letter of the 23rd August. The club was going to need an investment quite quickly. It was a football club with a great history which had fallen on hard times, and was now about to get a huge boost from being relocated to a new ground with considerable involvement and support from the local Council.

"60. I have no recollection that we talked at all about the Mansfield purchase that evening, other than to defer discussion of it until the next day. They left with Mr. Kevin Phelan, arranging with me to return with Michael Lowry the next morning. I understood from comments made to me the following day that they had gone first to Mr. May's house and then they had gone out together for dinner.

"61. I still did not have the answers that I felt that I needed to have in response to my letter of the 23rd August.

"62. The next morning, 23rd September, Mr. Kevin Phelan came back bringing with him Mr. Lowry. We spent the time on this occasion discussing the Mansfield purchase. At the time when Mr. Lowry had to leave (he had an appointment for a BUPA medical checkup in Leicester), his car failed to arrive and I offered to drive him to Leicester myself. He was, after all, my client and he made a strong impression on me. Our car journey lasted about an hour, but I have no real recollection now of our conversation in the car. I do know, however, that Mr. Lowry impressed me that, at last, here was a person who was prepared to help to get matters moving along.

"63. I have reread my letter of the 25th September to Mr. Lowry (File 81, Tab 3) many times. I dictated this letter the day after I drove him to Leicester and I can see that, in the first sentence, I made a mistake about the dates of the two meetings which had only just taken place.

"64. I dictated the letter, and I accept that I cannot think why I spoke in terms of Mr. Lowry's 'Total involvement in the Doncaster Rovers transaction.' It was a mistake on my part, but it was one which I think that I was led into making because Mr. Lowry had seemed so interested in wanting to help; and I was getting anxious about moving matters forward in relation to the outstanding issues.

With the benefit of hindsight, I think that his interest in helping to move matters forward was the reaction of a politician as well as that of a client whose agent, Kevin Phelan, was involved in the DRFC transaction.

"65. In all events, I had never discussed the DRFC transaction with Mr. Lowry before our meeting on the 23rd September, 1998. I have also never spoken to him, nor written to him, nor communicated with him in any way about the DRFC transaction after sending my letter of the 25th September. After sending it, I never heard from him again about any aspect of the DRFC deal and it moved forward without (so far as I am aware) any involvement by him at all. (Obviously I can only speak about these matters from my own personal knowledge.)

"66. I understand Mr. Lowry has told the Tribunal that he

did not receive my letter of the 25th September. I have no proof that that letter was or was not put into the post to his address on page 1. I am, therefore, unable to offer assistance about this aspect. The address is, I understand, his home and his office address.

"My Other Dealings With Mr. Lowry:

"67. As stated above, however, I continued to act for Mr. Lowry in relation to the Mansfield property which was eventually purchased by him in his own name on the 26th March, 1999 (File 81, Tab 27.)

"68. At that time, I was instructed by Aidan Phelan to draft a joint venture agreement between Mr. Lowry and Aidan Phelan. I prepared what I thought was an initial draft, with a view to obtaining further instructions when they saw my draft, however we never met to discuss this and I gave it to Helen Malone on floppy disc.

"69. But, in fact, I have seen from the papers given to me by the Tribunal that both of them accepted my draft and signed it on the 30th April, 1999. My instructions had been that Mr. Phelan was to own 90% of the venture and Mr. Lowry was to own 10%. This was intended, as I understood it at the time, to reflect their interest in the Mansfield property, since the deposit had been paid by Mr. Lowry whilst the balance of the purchase price had come from finance secured by Mr. Aidan Phelan.

"70. I met both Aidan Phelan and Mr. Lowry in August 2000 at Jury's Hotel, Ballsbridge, by which time they were very

concerned about the values of both Cheadle and Mansfield.

The meeting notes are in the Tribunal papers.

"Mr. Kevin Phelan's Complaints Against Me and Their

Withdrawal in April 2000:

"71. The purpose behind the purchase of both Cheadle and Mansfield properties was to enable a profit to be made on the sale of those properties having owned them for the shortest period of time.

"72. By the autumn of 2000, following the meeting at Jury's Hotel, to which Kevin Phelan was not invited, the relationship between myself and Kevin Phelan became somewhat strained, which resulted in a breakdown of our professional relationship and him reporting me initially to the Office for the Supervision of Solicitors and subsequently to the Complaints Partner of Scott Fowler, where I had been a consultant since 2004.

"73. I initially did not believe I had many documents relating to the complaints, but within the last few days I have discovered a file kept by Michael Dawe, the Complaints Partner of Scott Fowler, which has a number of relevant documents in it relating to the breakdown of our relationship.

"74. I have put together a file of papers which I'll hand to the Tribunal, which I have handed to the Tribunal, setting out the breakdown of the relationship between myself and Kevin Phelan, and I will refer to a number of letters in that file.

"(a) Letter 26th January, 2001 - myself to Kevin Phelan setting out the relationship we should have to the client.

"(b) Letter 16th February, 2001 - to the directors of Vineacre Limited explaining that I would no longer act with Kevin Phelan.

"(c) In exchange of correspondence 19th February, 2001, following the breakdown.

"(d) Draft letter 7th March, 2001, to Kevin Phelan. I do not have the letter of 5th March.

"(e) A further group of letters dated 4th, 8th, 10th and 11th October, 2001, being a complaint allegedly made to the Office for the Supervision of Solicitors by Kevin Phelan. It subsequently transpired that Kevin Phelan had never sent the letter of complaint to the Office for the Supervision of Solicitors. I, therefore, regard that letter and the subsequent one of the 10th October, 2001, to be forgeries sent as a threat.

"(f) I found the letter of the 4th October, 2001, particularly unpleasant. That contains a threat that Kevin Phelan has suffered losses in excess of a million pounds and that proceedings are being issued against me 'Without delay.' No claim nor any proceedings were ever served on me by Kevin Phelan. This was just an example of the threatening tactics he used against me.

"(g) Correspondence in 2002 with Woodcock & Sons, Kevin Phelan's solicitors. It will be seen by their letter

of the 26th March that negotiations had been carrying on without my knowledge between Kevin Phelan and others as a result of which a letter of the 19th April, 2002, was received withdrawing all allegations against me.

"(h) There is a confirmation in the letter of the 26th March, 2002, from Woodcock & Sons that the letters to the Office for the Supervision of Solicitors were never sent. Hence my assertion that they were forgeries.

"(i) I have read the papers which have been sent to me by the Tribunal, and I was surprised to learn of the negotiations with Kevin Phelan with Denis O'Connor, Denis O'Brien and William Fry Solicitors. I was not party to any of those negotiations.

"(j) The only negotiations that I had with Kevin Phelan face-to-face were in the office of Aidan Phelan on the 15th March, 2001, and I had hoped and thought that we had resolved our differences. Clearly, this proved not to be the case, because he made the complaint to the Office for the Supervision of Solicitors in October 2001.

"75. The only negotiations I had with Kevin Phelan for the withdrawal of the allegations against me was in March 2001. The letter from Woodcock's withdrawing all the allegations dated 19th April, 2002, was therefore a total surprise to me.

"76. By 2006 I had ceased to be a sole practitioner and had joined the firm of Scott Fowler Solicitors, who also operated out of Old Church Chambers, as a consultant solicitor.

"77. In March 2006, there is the start of correspondence with Kevin Phelan with regard to documents he was seeking from me. That correspondence has been now produced to the Tribunal, and the points raised are, I believe, self-evident in the correspondence, but you will see that I took advice from the Ethics Department of the Law Society at some stage to clarify my position as regards Kevin Phelan and his disputes with others.

"Conclusion - My Own Position:

"78. As a solicitor, I have tried to do my best to assist the Tribunal with such matters as are within my own knowledge. Clearly there may have been matters taking place to which I was never a party and in respect of which I have had no knowledge. In addition, I would add that I have not sought in any way to conceal from the Tribunal any documents. On the contrary, I have made my files available as and when asked to do so. I have not sought to suppress anything or any document.

"79. It must be appreciated that over a period of time documents disappear or become lost or destroyed. I was not under any obligation by means of any court order or direction from the Tribunal to preserve any of the papers that were or had been in my possession or inform them of

any visit, be it social or business, to Ireland.

"Statement of truth:

"I believe the facts set out in this statement are true."

It is signed by me, dated today, 21st April, 2009.

CHAIRMAN: Thanks, Mr. Vaughan. I am sure another glass of water would be advantageous at this particular vantage point. Just, whilst we are pausing

MR. NATHAN: Before we go any further, can I just mention one further thing. You will have noticed that there is a reference to a letter from Woodcock's, from which Mr. Vaughan has drawn some inferences and pointed matters out to the Tribunal. That's a letter in respect of which the Tribunal only has page 2, or what looks like page 2.

And the Tribunal has asked Mr. Vaughan, because the Tribunal has failed to extract from Messrs. Woodcock's page 1, the Tribunal has asked Mr. Vaughan yesterday to see if he can try to obtain it himself from Woodcock's, and I am able to tell you, sir, that today, or this morning, a letter went out first thing to Woodcock's, to the particular partner concerned from whom the letter had come, asking for their file copy of that letter.

CHAIRMAN: No response as yet?

MR. NATHAN: Certainly Mr. Vaughan is trying to do his best to get that document.

A. Chairman, I wonder if I may just mention one point. This is obviously my statement, I wrote it, and whilst reading it out aloud I suddenly realised in paragraph 45.9 there is

an error. I said there that is what Mr. Tunney of GE Capital Woodchester Bank had told me in April 2000. It was January 2000 when he told me this. So when I was reading it out, I suddenly stuck a sticker on it and I noticed that we had got a wrong date. So it should be January, there is a handwritten note.

CHAIRMAN: What paragraph is that again?

A. It is 45.9, Chairman. It is the third line of that paragraph, and it says "Had told me in April 2000." When I was reading it out I suddenly realised it must be January 2000. There is a handwritten note.

CHAIRMAN: Very well. I think one other procedural matter, just that arose on receipt of Mr. Vaughan's statement yesterday, was the reference in the third-last page at its conclusion to what may have involved the imputation of a criminal offence, namely forgery to Mr. Kevin Phelan, and I think in the context of that the Tribunal did notify Mr. Phelan on the address that has been on record to it.

Q. MR. HEALY: Mr. Vaughan, before the lunch break, I don't want to take up too much of your time. As I am sure you will appreciate, your statement refers mainly to documents with which members of the Tribunal legal team and members of other legal teams are familiar.

A. Yeah.

Q. But in the, I think the last few paragraphs in the section beginning with paragraph 71, under the heading "Mr. Kevin Phelan's Complaints Against Me and Their Withdrawal in

April 2002" you refer to a number of documents which I think the Tribunal has only got this morning

A. That is correct, Mr. Healy.

Q. So obviously some of the remarks you make, while they appear to make some sense, it's impossible to form any proper appreciation of them until the documents have been examined?

A. I understand that.

Q. And that goes for other lawyers here as well. And I think we are endeavouring to photocopy those documents and to afford people an opportunity. So we may just rise for lunch a few minutes early.

Now, just one other two small things. If I could just clarify one or two housekeeping matters before we go on to a lot of other documents. If I could ask you to look at paragraph 28 of your statement, and this is something I may have to come back to later. Do you have paragraph 28?

A. I do.

Q. You say: "I am attending this public hearing as a voluntary witness because in February 2009 when I was travelling to Dublin I was informed that the Tribunal had issued a Witness Summons calling me to attend on my arrival from England, where I am well aware that I am not a compellable witness without an English court order, I voluntarily went to the Tribunal's Secretariat office, Dublin, and spoke to the staff there and collected the summons myself without it having to be served on me. By

letter dated 20th February, 2009, the Tribunal agreed to pay my cost of attending."

When you say that you were travelling to Dublin and you were informed that the Tribunal had issued a Witness Summons, can you tell me who informed you that the Tribunal had issued a Witness Summons?

A. My solicitor, Duncan Needham, telephoned me when I was at Luton Airport before I boarded the plane, and he explained that the summons had been issued.

Q. Right. Did you know from him how he had learned that the summons had been issued?

A. I don't, no.

Q. You are presumably aware that the Tribunal learned of your intention to be present in Dublin from solicitors for Mr. O'Brien?

A. I am aware of that, yes.

Q. I take it that you are aware that solicitors for Mr. O'Brien wrote to the Tribunal informing the Tribunal that you were coming to Dublin to assist them by providing them with information, and that they did not wish to be subject to any criticism for failing to alert the Tribunal of your intended presence in Dublin. Are you aware of that?

A. Yeah.

Q. And that the Tribunal took the matter up with Messrs. Mahers indicating to them that they would wish to serve a summons on you, but that they wouldn't in any way

wish to embarrass you, and sought information concerning your arrangements, as it were, time of appointment and so on, and I think, I hope, I am correct in summarising the response from Messrs. Mahers was that in the circumstances there would be no difficulty and no issue whatsoever would be made, but that you would, in fact, come to Dublin Castle to collect the summons?

A. I can't comment on what was happening between them, yourselves and Messrs. Mahers.

Q. Are you aware of that?

A. I was informed by them that I should come and collect it from the Tribunal.

Q. You were informed by them?

A. Yes.

Q. That you should come and collect it?

A. That I come here. And I arrived here by myself, nobody else was with me.

Q. I appreciate that. But you didn't inform the Tribunal yourself before coming to Dublin that you wished to become a voluntary witness; isn't that right?

A. I didn't, but I was aware that the solicitors for Denis O'Brien Junior had written the letter because they were in communication with Duncan Needham, my solicitor, and criticism had been made against both myself, and I gather others. I wouldn't know I haven't seen the documents, but certainly criticism that I hadn't informed the Tribunal of my movements.

Q. Not you. I think it was mentioned in the course of the proceedings here that another firm of solicitors being aware of your intention to travel to Ireland and having brought proceedings complaining that the Tribunal had failed to secure your attendance, had omitted to tell the Tribunal of your intended presence in Dublin, isn't that how the matter arose?

A. No.

Q. You subsequently

A. No, I think the problem is that we perhaps I can just talk about these findings for a minute. This is my problem.

Q. I just want to clarify one thing with you. Had you any intention before you came to Dublin of making yourself available as a voluntary witness at this Tribunal?

A. I can't answer that without referring to the findings.

Q. All right. Can I ask you this question, and I think I have already put this to you: You had not written to the Tribunal indicating that you wished to make yourself available as a voluntary witness; is that correct or incorrect?

A. I have to refer to the findings.

Q. I don't want you to refer can I ask you the simple question. Mr. Vaughan, I am asking you a question yes or no?

MR. NATHAN: I am concerned because the witness wants to answer in a particular way and in a particular way which is

apparently causing embarrassment. I can readily understand that is the position viewed from the point of view of the Tribunal, but I don't think that it's fair for this line of questioning to go on in this way if, on the one hand, he wants to answer, but he is being told that he may not actually make reference to the things which he wants to refer to for the purpose of giving his answer. It seems to me that given the way that the matters are going forward, I am not sure that, sir, you are going to be terribly well helped by this line of questioning on the one hand, and yet, the witness also being prevented, for perfectly understandable reasons, from actually giving the answer he wants to give. And one is in a situation where that material information which is being sought he is here now, we know that he is here. I am not sure that we are going to be

MR. HEALY: I think I can short-circuit matter and

MR. NATHAN: know exactly factually what happened as far as he is concerned.

MR. HEALY: I think I can short-circuit the matter, sir. I will deal with it privately and in correspondence, and if it can be disposed of in that way there will be no need to further pursue the matter, but if it can not, I think it will be a matter that we will have to come back to, and Mr. Nathan's objections are something, I'll have something to say about. I am happy to leave it for the moment and we'll find out later on.

A. Mr. Chairman, can I just raise a point about this as well?

When I entered this witness-box, I took an oath to tell the truth. And I am now being asked not to tell the truth, because I have been asked a question and I can't answer that question without referring to a matter which I am told not to refer to. It puts me in an impossible position.

CHAIRMAN: I don't think it's going to be an insuperable obstacle, Mr. Vaughan. I can conceive myself readily enough of some formula by which you may be enabled to address the matter without having any form of detail of any possible potential criticism put in chapter and verse, but perhaps for the moment I may leave it between the respective legal advisors and if, in the context of either vindicating your own good name or in any other context, it becomes relevant, I'll readily take it on.

A. Thank you very much.

Q. MR. HEALY: Just one other matter and it's probably to do with the, maybe the form of words you used that I haven't quite understood something, Mr. Vaughan, two other matters in fact.

If you go to paragraph 74, subparagraph (H), and this is dealing with documents we haven't actually examined, but in any case, it may be a way of resolving a problem I have in understanding your remarks here. Paragraph (H) says:

"There is confirmation in the letter of the 26th March, 2002, from Woodcock & Sons that the letters to the Office for the Supervision of Solicitors were never sent. Hence

my assertion that they were forgeries."

Do you mean the letters to the office were forgeries or that you were provided with letters purporting to come from the office?

A. The only letters that existed were from Kevin Phelan to the OSS, so there is one letter to him which he copied to me.

There is another letter which he sent to me and on the bottom it says "CC Office of Supervision of Solicitors".

Q. I just wonder is the word "forgeries" the correct word? Do you believe that Mr. Kevin Phelan Mr. Kevin Phelan sent you letters and suggested to you that he had sent those letters to the Office for the Supervision of Solicitors, is that correct?

A. Yes.

Q. And you are saying that what you learned was that he never sent any documents?

A. That's correct.

Q. To the Office for the Supervision of Solicitors. So he was purporting to complain you to the Office for the Supervision of Solicitors while not having done so?

A. Correct.

Q. Would that be a more accurate way of explaining it or have I missed something?

A. No, that is what happened, and it is confirmed by Woodcock's letter of the 26th March.

Q. Just one other similar matter. Again, maybe it's just that I am not following it. If you go to paragraph 44.12, you

are dealing with the long form/short form letters, if you follow me. Have you got that paragraph?

A. I have, yes.

Q. "I cannot now recollect whether it was I who first realised these points or Kevin Phelan who first pointed them out to me when he received letter C from me by fax on 12th July, 2000. I had my secretary make the appropriate changes to the letter and I signed and sent off a new version, i.e. letter B to Kevin Phelan on (I believe the same day) 12th July, 2000. The changes were: (1) The deletion of the last paragraph, and (2), the change of words 'Our client' to 'Aidan Phelan.' Aidan Phelan was not then a mutual client of Kevin Phelan while Catclause had been."

Do you mean that - maybe I am not understanding this - do you mean that Aidan Phelan was not then a client of Kevin Phelan at all? Kevin Phelan had no obligations of any kind or any dealings of any kind with him, is that what you are explaining or seeking to explain?

A. Mutual client, so Kevin Phelan is an agent. I was the solicitor, our mutual client was Catclause. So, as far as I was aware, Kevin Phelan was not an agent for Aidan Phelan. Therefore, he was not the mutual client; Aidan Phelan was not the mutual client because although I was acting for him, Kevin Phelan was not his agent.

Q. When you say "Client," are you saying that Kevin Phelan had, at that point, ceased to have any dealings with Aidan Phelan, is that your point?

A. No, I am not saying that at all, no.

Q. He had introduced the property transaction, hadn't he, Kevin Phelan had introduced the property transaction?

A. Which particular property are you talking about?

Q. Cheadle at this point?

A. Yes, but the client for Cheadle was initially Catclause Limited.

Q. The individual was Michael Lowry initially; isn't that right?

A. Yes, but a limited company is a separate legal entity.

Q. Yeah, I appreciate that, but that was a vehicle; isn't that right?

A. It was a vehicle, yes, and if you

Q. I think I understand you. If it causes a problem, we'll come back to it.

CHAIRMAN: Well, you were proposing that slightly extra time be allowed to enable some additional documents to be circulated, Mr. Healy. Shall I say ten past two? Very good. Thank you.

THE TRIBUNAL ADJOURNED FOR LUNCH

THE TRIBUNAL RESUMED AFTER LUNCH AS FOLLOWS:

CONTINUATION OF EXAMINATION OF MR. CHRISTOPHER VAUGHAN BY

MR. HEALY:

Q. MR. HEALY: Now, Mr. Vaughan, the book of documents that you produced to the Tribunal this morning, which I think have been handed around, I propose to refer to as 81B.

A. Okay.

Q. And I don't think it will be necessary to refer to every single one of them, but perhaps just to enable people to make sense of your statement, it may be necessary to refer to some of them which are important ones, and I think most of those are to the front of the book. You refer to them do you have a copy of

A. I don't have a copy.

Q. I am getting you a copy now.

(Book of documents handed to witness.)

At paragraph 74 of your written statement, of your signed statement, sorry, you say: "I have put together a file of papers which I will hand to the Tribunal setting out the breakdown of the relationship between myself and Kevin Phelan, and I will refer to a number of letters in that file."

And the first one you refer to is a letter of the 26th January, 2001, "Myself to Kevin Phelan setting out the relationship we should have to the client." And that document is contained at, it's the first document at Tab 1.

A. I have it.

Q. It's clearly an office copy, am I right, of a letter you sent to Kevin Phelan? It says: "Dear Kevin Phelan, re St. Columba's Church, Mansfield sites," that's in other words, Cheadle and Mansfield, you see it?

A. I can, yes.

Q. It's on the screen as well. It might be easier, in fact, to look at it on the screen, it sometimes is?

A. I hadn't realised it was on the screen.

Q. "I do not propose to write a long letter to you with regard to our telephone conversation of the 23rd January, 2001.

"However, you seem to misunderstand the 'Chain of command.'

You are not my client, both you and I are agents of the landowner and therefore we both take instructions from him.

"There are two mortgage lenders:

1. Investec in respect of St. Columba's Church" and

that is Cheadle; isn't that right?

A. Yes.

Q. "And 2. AP in respect of the Mansfield site." And that, presumably, is Aidan Phelan; is that right?

A. Correct.

Q. "Irrespective of what the landowner, you or I might think, either lender could exercise the powers of a mortgage lender and sell either property to repay the debt that is owed to them.

"There is no point in your saying 'The only person who can sell these properties is me' because this is not correct.

"Both of us are in an identical position - we are employed professionals acting on behalf of our principal. If he decides to give us instructions for whatever reason, it is up to us to carry them out. Likewise, if he decides to ask other professionals to advise him, it is his privilege, and neither you nor I have any right to complain about that.

"You will appreciate from what I said to you on the telephone, that Chestertons have completed reports on both

St. Columba's and Mansfield.

"Without our principal's consent, I cannot send you copies, but you said that you did not want to see copies of them in any event as they would be a 'load of rubbish.'

"If you, as stated on the telephone, are confident of selling St. Columba's Church for 1.2 to 1.2 million pounds sterling, you will have done a brilliant job and should be applauded for it.

"Please do not think in any way that I am trying to go behind your back or criticise your professional skills. I was asked by a principal to do a particular job, namely to obtain an independent appraisal on these two properties from a firm of agents, and that is what I have done."

Now, the next document you refer to is a letter of the 16th February to the directors of Vineacre, explaining that "I would no longer act with Kevin Phelan." This is the second document these are the second and third documents, as I understand it, in Tab 1, and it's 74B in your statement.

A. Yeah.

Q. The first document is a handwritten note by you on a faxed transmission report. I think I can I think I am correct in saying that it's a fax transmission verification report of your having sent the letter, to which I'll refer in a moment, to Liam Carroll?

A. Yeah. If I can assist you, that is my handwriting.

Q. I can appreciate that. And I have checked the fax number, and you have said: "Not faxed to ML" - meaning,

presumably, Michael Lowry - "as I could not get him on phone to receive the fax."

A. Correct.

Q. Because I think you have explained to the Tribunal that because he moves around you would ring him first to know what address you should write or fax things to?

A. Yes.

Q. I'll go through the letter as quickly as I can.

"Dear Michael and Liam."

You are writing to them as the directors of Vineacre Limited on the 16th February, 2001.

"I am sending this letter to you both by fax and post.

"As a result of a telephone conversation that I had with Kevin Phelan on the 15th February, 2001, I feel unable to take any further instructions from him in respect of any matters involving Vineacre Limited.

"I would be very happy to proceed with the work on your behalf, but I am unable to have further dealings with Kevin Phelan.

"If you wish to instruct other solicitors to deal with the work, I shall be happy to pass the paperwork over to them, subject to the payment of my costs and my release from two professional undertakings given to Messrs. Shoemiths and Woodcock's in respect of the Rackwood options in September 1999.

"The current work that I am doing for Vineacre is the completion of the sale of Cranberry Lee Farm from Jack

Robinson, and the sale of part it to Barrett Homes.

"A draft contract has been prepared and sent to Barrett Homes. However, that will require some amendments, as I am now told that the contract is conditional on Barrett's obtaining planning consent on the land.

"I have also just received from Messrs. Barrett's solicitors a large number of general inquiries and queries as to the contract which remain to be dealt with.

"I am extremely sorry that this situation has arisen, but I feel that I can no longer take instructions from Kevin Phelan.

"I look forward to hearing from you with instructions in due course."

The next document on the file is just another copy of the same letter.

Can I just ask you, I don't want to dwell too much on these letters at this point, but did you get instructions to pass on the file?

A. Yes.

Q. You did?

A. They were passed on to some solicitors in Luton, and that was the end of the matter so far as I was concerned.

Q. So you no longer had to deal with Kevin Phelan in connection with Michael Lowry's affairs?

A. No. If I can just add in, it's pure chance, I think, that the solicitors who I had given an undertaking to, Woodcock's, happened to be the same solicitors who now act

for Kevin Phelan.

Q. Perhaps you'd just clarify that. Was that in relation to a matter where Kevin Phelan was their client or was it

A. No.

Q. in relation to a matter where somebody else was their client?

A. What had happened on both these matters was they were selling on behalf of an insolvent owner, and as is usually the case there, then the selling solicitors want their costs paid as well, and Shoemiths, our solicitors in England, had given personal undertakings to Shoemiths and Woodcock to be responsible for their professional fees in respect of the sale of the property. So I needed to pass that on.

Q. I appreciate that, yeah. But it was Woodcock's involvement was not in connection with any work they were doing for Kevin Phelan?

A. No, pure chance.

Q. Because as we know, they are his solicitors in relation to a number of matters?

A. Yeah.

Q. The next three letters I refer to at para 74C of your statement. They are firstly a letter from Gameplan International Limited to you, another short letter from Gameplan International to you, both on the 19th February, 2001. Your reply by fax on the same day, as far as I can see. And then another draft letter which we'll come to.

The first letter from Gameplan International Limited, which I think I can for short call Mr. Kevin Phelan's company; isn't that right?

A. Correct.

Q. 19th February, 2001, to Christopher Vaughan, solicitor, notary public, Old Church Chambers, Sandhill Road, Northampton.

"Dear Mr. Vaughan,

"Further to our telephone conversation on the 15th February, 2001, we must now outline our position to your firm as follows:

"As at the 15th February we no longer want your firm to act on our behalf or on behalf of any of our clients. We are extremely disappointed and concerned at the way in which your firm has dealt with a number of matters. We are currently consulting our advisors on a range of issues we firmly believe will lead to legal action against your firm and result in a claim for damages and losses incurred as a result of your actions.

"We believe you acted improperly in a number of areas, however we have requested our advisors to examine the following items in particular:"

And these are listed then as bullet points.

" Acting on matters without authority or instructions.

Acting in a manner which causes serious conflict of interest.

Altering documents resulting in serious financial

exposure.

Altering documents resulting in serious financial loss.

Disclosing confidential client information to third parties.

Altering company registered office without authority or instruction resulting in a breach of the Companies Act and causing statutory obligation problems for the company.

Producing misleading and inaccurate client account information.

Disclosing information without authority causing financial loss.

Misrepresenting you and your firm to our clients.

Meeting in secret with our clients without our knowledge or instruction.

"We must inform you that it is our intention to have all accounts issued by your firm, past and present, inspected and assessed by the Taxing Master.

"In view of the serious situation, we must insist that you refrain immediately from acting for any clients introduced to your firm by us. We will inform our clients accordingly, and should your firm choose to ignore this request, we reserve the right to initiate further proceedings at a later date.

"Finally, we reserve the right to inform the Law Society and any other statutory body in order to avoid further difficulties for our clients. We would also caution the

release of any documents or information regarding our clients to any party without our written consent and authority. We trust you understand this position and advise you to expect contact from our litigation lawyers."

Obviously he didn't accept the account of the situation you had set out in your letter in January 2001 as to the relationship between solicitor and client.

He wrote on the same day another letter, again to you at the same address on the same Gameplan notepaper. I am sorry, I think Ms. O'Brien correctly alerts me to the fact that the letter I am about to read is probably a reply to your letter which is on the next document.

A. That's correct.

Q. I think that will assist, if I go to that next. This is the third document in that divider.

"Dear Kevin,

"Thank you for your letter of the 19th February, 2001. I think it would be helpful if I clarified the position between various clients and ourselves, and no doubt you will explain this to your advisors.

"You, Kevin Phelan, as an individual and Gameplan International Limited have at all times been acting as agents for named principals, e.g.

"Westferry Limited,

Vineacre Limited,

Catclause Limited,

Beechwild Limited,

Harrison Murray Overseas Limited,  
Draftclip Limited,  
Avoneve Limited,  
Doncaster Rovers Football Club Limited,  
Bryan Phelan,  
Aidan Phelan,  
Michael Lowry,  
Liam Carroll,  
and peripherally, others.

"Work has been undertaken by me, as a solicitor, and has been billed to and paid for by those principals. So far as I am aware, no bill or advice has been rendered or given to you personally or to Gameplan International Limited, who have at all times acted as agents in negotiating various transactions in respect of those names principals.

"All instructions to me, therefore, have come from the particular principal either directly or through an agent such as yourself, or Gameplan International Limited, and have been acted upon accordingly.

"With great surprise, I note the list of allegations that you are making, which I find generally insulting and defamatory.

"I will only deal with specific queries arising out of work that I have done directly from the principal concerned and not from you or Gameplan International Limited.

"I am sorry that our previous friendly relationship has broken down, but I also came to the conclusion, following

the telephone conversation of the 15th February, 2001, that I could no longer take instructions from you or Gameplan International Limited.

"Accordingly, I notified the directors of Vineacre Limited and Aidan Phelan and Michael Lowry of my decision last week, being the principals involved in current transactions. Neither you nor Gameplan International has any authority to impede or prevent communication between myself and the principals named herein."

If I just clarify one small matter, perhaps just to understand the correspondence. If you go to the penultimate paragraph of that letter: "Accordingly, I notified the directors of Vineacre Limited and Aidan Phelan and Michael Lowry of my decision last week, being the principals involved in current transactions."

When you refer to the "directors" of Vineacre, are you referring to Liam Carroll and Michael Lowry qua directors of Vineacre?

A. Yes. Is there not a company search in here which shows who they are? But they were the directors.

Q. And when you refer to Aidan Phelan and Michael Lowry as "principals involved in current transactions," what transactions do you mean other than the ones Vineacre was involved in?

A. Michael Lowry was involved in Vineacre and Aidan Phelan was involved in Doncaster Rovers Football Club Limited.

Q. I appreciate that. And maybe it's just I don't want to

get focused on semantics, but the directors of Vineacre

were Aidan Phelan and Liam Carroll?

A. No, Michael Lowry

Q. Sorry, I beg your pardon, Michael Lowry and Liam Carroll.

So, in saying you notified the directors of Vineacre

Limited, you had notified Michael Lowry and Liam Carroll?

A. Yes, those are the first two letters you read out.

Q. Yes. And then you refer to Aidan Phelan again sorry,

then you refer to Aidan Phelan and then you refer to

Michael Lowry again. Is that in his capacity as a

principal in another transaction?

A. No, I think it's just the way I dictated the letter. As

you can see, these are dictated on the same day and the

atmosphere was fairly hot in the office.

Q. Maybe it's not a big issue. His response to you, which is

the document I mentioned a moment ago, the short letter

written on the 19th February, 2001. And presumably sent to

you by fax.

"Dear Mr. Vaughan, re your letter 19th February, 2001.

"It is very obvious to us that you are attempting to

justify your firm's actions as a result of our earlier

letter. As you are well aware, we originally employed your

firm and we have instructed you and your firm since 1997.

We have never informed you that we were agents at any

stage.

"In your letter you are confusing agents with principals

and principals with funders, which is unbelievable after

three years.

"We, therefore, reiterate the contents of our earlier correspondence and trust you will realise your confusion and take into account the detailed correspondence between us."

Now, passing onto the letter referred to at 74D, where you allude to the following draft letter 7th March, 2001, to Kevin Phelan, "I do not have the letter of the 5th March."

I think that will become clear from the first line of the draft letter. This is a draft letter to Kevin Phelan.

"Dear Kevin,

"Thank you for your fax of the 5th March" - that's the document you don't have - "I would reiterate what I stated in my letter of the 19th February last, namely that I will no longer deal with you personally in respect of any transactions, only with the principal concerned, in this case namely Vineacre Limited.

"If Vineacre write to me, I will deal with any queries that may raise.

"Alternatively, if you obtain a written authority from all the directors in Vineacre Limited, I will be very happy to deal with you directly.

"My company search indicates that there are only two directors and shareholders of Vineacre Limited, and it was to those two people that my letter of the 16th February was sent.

"I must take up again the issue of your notepaper, it is

still, despite numerous requests from me, showing the registered office at this office, which it is not. Could you please let me have an immediate written undertaking that you will no longer use this address as your registered office and delete it from your notepaper."

And then there is a crossed out bit.

This is a draft of a letter that you sent or is it a letter you didn't send but one that simply indicates your frame of mind at the time?

A. Unfortunately, I can't help you on that. I found this in the Scott Fowler complaints file, so I can't help you as to whether it was sent or not.

Q. I suppose what it does indicate is that he was still in contact with you over the issue that you have referred to a moment ago, and whether you sent it or not, you were you may have, as you said, felt it, or as I said, felt it.

At 74E, you then refer to a further group of letters dated 4th, 8th, 10th and 11th October, 2001, being a complaint allegedly made to the Office for the Supervision of Solicitors by Kevin Phelan. "It subsequently transpired that Kevin Phelan never sent the letter of complaint to the Office for the Supervision of Solicitors. I therefore regard that letter and the subsequent one of the 10th October to be forgeries sent to me as a threat."

Now, again, just to clarify your use of the word "forgeries." You are not suggesting these letters didn't come from Kevin Phelan?

A. No, no.

Q. They came from him containing the threats which he, as I understand your statement, intended to have an impact on you, but which he wasn't actually or didn't actually carry out; is that right?

A. Yeah, I was looking at it from the point of view that this was a letter produced by him that was in fact something different from what it purported to be. It was a letter addressed to the Office of the Supervision of Solicitors, but in fact was never sent, which is admitted in the letter from Woodcock's.

Q. He is endeavouring to give you the impression he had complained you?

A. Yes.

Q. When, in fact, he hadn't done so. So you believe he was endeavouring to misrepresent the situation to you by sending you a letter on his notepaper which he hadn't, in fact, sent?

A. That's right. And it becomes clearer in the next letter.

Q. All right. I just want to be clear that you don't regard the letter as not having emanated from Kevin Phelan?

A. No.

Q. This is his letter to the Office for the Supervision of Solicitors re Christopher Vaughan.

"Dear sir or madam,

"We wish to register serious complaint against the solicitor detailed above. Mr. Vaughan has acted in an

unbelievably negligent way in regard to an extensive number of matters. We have outlined our dissatisfaction to Mr. Vaughan in detailed correspondence and have received no acceptable response.

"We will refer to the following schedule of letters which were forwarded to Mr. Vaughan detailing our difficulties."

Then he listed these letters, and I don't think I need to go through the list of them.

"The above schedule represents a very small portion of our detailed correspondence with Mr. Vaughan since 1997. We must further inform you that we intend to claim for significant damages and costs, our initial estimates exceed £1m sterling. We are currently preparing our legal case and will institute proceedings without delay.

"We trust you will note this correspondence."

And then "CC Christopher Vaughan."

The next letter then is a letter of yours dated the 8th October, 2001, addressed to the Office for the Supervision of Solicitors, obviously at a time when you believed this letter had been sent?

A. Correct, yes.

Q. You spoke to somebody, as far as we can judge from your letter, at the Office for the Supervision of Solicitors, but obviously she wasn't in a position to clarify for you whether the letter had been sent or not, because you clearly did think it had been sent at this point.

"Dear Sirs,

"Complaint by Gameplan International Limited/Kevin Gregory

Phelan:

"I refer to the telephone conversation I had with

Mrs. Butler at 19.45pm on Monday, 8th October.

"I enclose herewith a copy of a fax dated 4th October,

2001, from Kevin Phelan of Gameplan International Limited

to yourselves, which was copied to me but which you do not

yet seem to have received.

"At no time has Kevin Phelan ever been a client of mine.

"Kevin Phelan has acted as an agent on various transactions

when I have acted as solicitor for companies and

individuals who have always been the principals in all such

transactions.

"I enclose herewith the exchange of three faxes that took

place on the 19th February, 2001, which I believe are

self-explanatory.

"That, so far as I was concerned, was the end of my

dealings with Kevin Phelan.

"However, you will see in my letter of the 19th February,

2001, there is a reference to an individual 'Michael

Lowry.'

"Michael Lowry is currently subject to a tribunal of

inquiry set up by the Irish Government, chaired by

Mr. Justice Michael Moriarty, who are looking into various

financial dealings, including the purchase by Michael

Lowry, who is a member of the Irish Parliament, of two

properties in England.

"I acted for Michael Lowry in respect of the purchase of both those properties. Kevin Phelan's letter of the 4th October, 2001, refers to a letter of the 12th September, 2001, from him to me.

"That letter concerned the purchase of the two properties in England by Michael Lowry. So far as I am aware, Kevin Phelan had absolutely no status or right whatsoever to make any inquiries into the purchase of those two properties, and in view of my previous refusal to deal with Kevin Phelan I did not reply directly to the letter to Kevin Phelan.

"However, I did send a copy of the letter and a suggested reply to Michael Lowry's Dublin solicitors, who are dealing with Michael Lowry's appearance before the Tribunal, for them to deal with that letter as they thought fit.

"I am at a total loss as to any reason for Kevin Phelan to write the letter of the 4th October to you, but if there is anything further that I can do to assist you in sorting out any relevant issues raised by Kevin Phelan, I will obviously be only too happy to do so."

Do you remember sending that letter? Do you remember when you wrote it?

A. Oh, yes, yes.

Q. Can you remember did you get any response from Michael Lowry's Dublin solicitors?

A. I can't remember.

Q. Right. You see

A. Sorry, can I just take you back? You said, did you send that letter? I thought you meant the letter to the Office for the Supervision of Solicitors

Q. Yes.

A. Yeah, that was certainly sent to them. But then you said did I get a reply from them?

Q. No, no, sorry, we are at cross-purposes. I am referring to your second-last paragraph, and lest there be any difficulty about my question, just go to the second-last paragraph again.

A. I can see it. I assume I did send it to them, but I haven't got a copy of it and I haven't got a reply.

Q. I appreciate that. You sent Kevin Phelan's letter and a suggested reply, do you see that?

A. Mmm.

Q. Do you have a copy of your suggested reply?

A. No.

Q. Right, okay. Can you remember what it was?

A. No.

Q. The next letter is a letter of the 10th of March, you refer to, again from Kevin Phelan. The 10th October, that you refer to, sorry, from Kevin Phelan to you and your wife at this stage from Gameplan International in Omagh to Mr. and Mrs. Christopher Vaughan, Old Church Chambers, Sandhill Road, 10th October, 2001.

"Dear sir,

"Reference: Previous correspondence and copy letter dated

4th October, 2001." That is presumably - I am not totally familiar with these documents - the letter to the Law Society, or the letter purporting to have been sent to the Law Society?

A. Well, it's the Office for the Supervision

Q. The Office for the Supervision of Solicitors, right.

"We refer to our previous correspondence and our copy letter of October 10th, 2001. We are extremely concerned that you have discussed our correspondence with third parties. We are amazed that you have decided to breach confidentiality and continue to act in a most neglect way.

As we have previously stressed, we hold you and your firm responsible for damages for costs resulting from your negligent acts.

"We have referred this latest breach of confidentiality and negligence to our legal advisors. We have instructed our legal advisors to examine any possible procedure to restrain your firm from practicing as solicitors."

He CCs that to the Office for the Supervision of Solicitors as well.

You then write to the Office for the Supervision of Solicitors referring to the further letter that you received from Kevin Phelan, and enclosing it with your own letter, and I think saying essentially that if you had the faintest idea what his complaint was about, you'd be happy to help them.

A. Yeah.

Q. The next group of documents I think are referred to at para 74G. I think there are ten documents in all, comprising correspondence between you and Woodcock & Sons Solicitors acting for Kevin Phelan. Have you got the first of those letters, a letter of the 28th January, 2002?

A. I have, yes.

Q. "Dear Mr. Vaughan,

"We act on behalf of the following:

1. Kevin Phelan trading as M&P Associates.
2. Gameplan International Limited.

"We attach written authority on behalf of these clients to the release of any documentation/file that is currently held by you.

"Would you please confirm that all files/documentation can be immediately collected.

"We look forward to hearing from you.

"We have been asked to advise our client in relation to various issues that have arisen out of joint ventures that parties have entered into in relation to various projects. Specifically, we have been instructed to advise in relation to breach of agreement concerning the following:

1. Doncaster Rovers.
2. Altrincham Football Club.
3. Mansfield.
4. Handforth."

Handforth is another name for Cheadle?

A. Cheadle, yes.

Q. "In relation to Handforth, we are instructed that this property was registered in your name on behalf of the parties to the joint venture. Our client has instructed us to advise as to whether he has a legal interest in the land. Please confirm that you will not take steps to dispose of the interest currently registered in your name until this matter is resolved.

"We have corresponded with all parties to the joint venture informing them of our appointment, and have notified them of the instructions that we have received."

"The parties who we have corresponded with are as follows:

- 1) Aidan Phelan.
- 2) Denis O'Brien.
- 3) Michael Lowry.
- 4) Denis O'Connor."

And the next document is a Letter of Authority from you authorising you to release to Mr. David McCann of Woodcock & Sons the documentation and papers held by you owned either by himself, M&P Associates, or Gameplan International Limited, and signed by Kevin Phelan on behalf of M&P and Gameplan International Limited.

You wrote to Messrs. McCanns in reply on the 28th January, 2002, the same day, and you enclosed copies of correspondence between yourself, Kevin Phelan and the Office for the Supervision of Solicitors. You go on to say:-

"I do not think that I have any papers in my possession

which relate to Kevin Phelan, M&P Associates or Gameplan International and which belong to them, save for the company seal and Memorandum of Articles of Association of Gameplan International Limited.

"All the files that I do have belong to the principals named in the correspondence and not to their former agent, Kevin Phelan.

"I regret that I cannot assist you further."

Q. Now, that was in January of that year. The next document in this section is dated the 26th March, 2002, again from Messrs. Woodcock & Sons to you on behalf with Woodcock's writing on behalf of Kevin Phelan.

It says: "Dear Mr. Vaughan,

"We refer to our correspondence of the 21st March, 2002."

Now, that's not a letter that we have referred to in this bundle of documents.

"We understand from your client that he has had meetings with parties in Ireland over the weekend who are connected to the various projects that we have referred to within our correspondence.

"We understand from our client that there has been outline agreement in relation to the terms of settlement, which is to be crystallised in the form of a formal agreement between the parties upon the return to Ireland of Denis O'Connor. The writer understands that he is currently in America.

"In the circumstances, subject, of course, to crystallised

terms of agreement being reached in relation to the disputes that have arisen in this matter, our client would be prepared to confirm that he would not pursue a complaint against you in relation to those issues that have been raised within correspondence. We confirm that the correspondence that has been sent to you last Thursday has not, in fact, been sent to the Office of the Supervision of Solicitors.

"As you appreciate, our client has required the recovery of files that you hold on his behalf on the basis that these would assist him in relation to the claims that he is considering bringing.

"We trust, however, that this matter can be brought to an amicable settlement, and in those circumstances our client is agreeable to leaving matters be.

"No acknowledgment of this correspondence is required."

Now, the opening line of that letter refers to the letter of the 21st March, 2002, in respect of which the Tribunal has been writing to you, and indeed, to Messrs. Woodcock's, with a view to obtaining a copy of the first page, because the Tribunal only has the second page. I am not going to go into it in detail at this stage, but the second page contains allegations relating to a number of letters, including some of the long form/short form letters that are referred to in your statement; isn't that right?

A. It does.

Q. The next letter is a letter of the 19th April, 2002. Can I

just ask you before we go on to it, did you can you remember did you respond to the letter of the 26th March, 2002?

A. Well, I don't think I did, and I probably took notice of the last paragraph.

Q. But it was a letter suggesting that by reason of matters that were being, as the writer thought, hopefully resolved elsewhere, the complaints Phelan was making against you would not be pursued, isn't that right?

A. That's what he says, yes.

Q. And also telling you that the correspondence that had been sent to you the previous Thursday had not been sent to the Office of the Supervision of Solicitors, meaning, presumably, the letter and any enclosures contained in the letter of the 21st March, 2002?

A. I assume so, yes.

Q. Then, on the 19th April, 2002, you get a letter from Woodcock's, again on behalf of Kevin Phelan.

"Dear sir,

"I have been instructed by my above-named client to correspond with you as follows:

- "1. In his own capacity.
2. In his capacity as a partner in M&P Associates.
3. In his capacity as director of Gameplan International Limited.
4. In his capacity as Westferry, Glebe Trust.

"I would refer to the allegations and requests made to you

in our letter of the 28th January, 2002, and 21st March, 2002." Obviously there is a typographical error there.

"Our client agrees that:

"1. There is no need for you to reply to any of the points raised in the above letters.

"2. At all times when instructions were given by our client on the part of a principal, he was acting as agent either for a disclosed or an undisclosed principal.

"3. He unreservedly withdraws the complaints made about you to the Office for the Supervision of Solicitors.

"4. Our client has no claims for negligence against you.

"5. Our client is not demanding the return of any files."

I understand from your statement that that letter came to you as a total surprise?

A. Yeah.

Q. Completely out of the blue?

A. As far as I recall, yes.

Q. And had you had any contact with anybody between the 26th March and the 19th April which might have led you to believe that something like this was about to happen?

A. I really can't remember, it's such a long time ago.

Q. All right. We'll come back to it later and look at some other documents that might stimulate your memory.

The next document, I am not sure that I can put the next bundle of documents, or the next part of the bundle into a sort of appropriate sections, but the first of them is a

letter of the 13th September, 2002, from Woodcock's to you on behalf of Kevin Phelan and Gameplan International.

"Dear Mr. Vaughan,

"As you appreciate, we are instructed by Gameplan International Limited. Such company has need of its company seal." And asking you for the company seal.

On the next page you send a letter enclosing it. And then on the next page they acknowledge it; is that right?

A. Yeah.

Q. The next document is a letter from Woodcock & Sons asking for the original Memorandum and Articles of Association, and also any books in relation to Gameplan arising out of its incorporation. On the same day you received an acknowledgment of the company seal. And the next document of the 23rd September, 2002, is your letter to Messrs.

Woodcock & Sons indicating that you have one copy of the Letter and Articles, which you enclose, and two copies of two Form 288As, which you also enclose. And you say you have no other documentation.

So, I think all that latter group of letters from September, from the 13th September to the 23rd September, simply deals with the return of the seal and the Memo and Arts of Gameplan; isn't that right?

A. That's right, yeah.

Q. Then the next grouping of letters takes us up to 2006, or I beg your pardon, brings us to 2006.

A. I wonder if I could just assist you there?

Q. Please do.

A. As I said in my statement, by 2006 I had become a consultant to Scott Fowler, both our practices operated from the same building, Old Church Chambers. The Law Society's Solicitors Regulator Authority, who was in charge at that moment, they had very specific rules as to complaints, and you must nominate a partner to be a complaints receiving partner. So, once I became under the regime of Scott Fowler, then I had to comply with the complaints procedure. This is why I managed to find these papers which I wasn't, which I thought were lost or, you know before your request the other day. And you will see some of the letters that you are going to look at in a moment are actually addressed and replied to by Michael Dawe, who was a complaints partner, so he dealt with them in 2006. That's why there is a slight change of emphasis.

Q. The first document is a letter of March 2006 from Kevin Phelan from Gillygooley Road, Omagh, County Tyrone, to you at your address in Old Church Chambers, March 6th, 2006, "Re Westferry Limited and Glebe Trust.

"Dear sir, we refer to the above and previous correspondence with you on matters relating to Westferry Limited and Glebe Trust. As you are aware, you were instructed by us in the past in relation to issues regarding Westferry Limited and Glebe Trust.

"We are now preparing documents for counsel, and we require a copy of all correspondence which you hold on file and, in

particular, correspondence relating to share transfers which took place between Westferry Limited and Glebe Trust. As you were involved in a number of transactions relating to Westferry Limited and Glebe Trust, we need to clarify discrepancies in some of the correspondence which we hold with your documentation.

"We would urge you to consider this matter very carefully and not brush this issue aside, as you have in past correspondence relating to other matters. We would also ask that you take into account correspondence forwarded by you to others in relation to Westferry Limited and Glebe Trust, as we will be making similar requests of those parties.

"We will expect a response within seven days."

You reply on Scott Fowler notepaper saying: "Thank you for your letter" - this is your reply of the 10th March, 2006 -

"Thank you for your letter of the 6th March, 2006. As you will recall from previous correspondence and telephone conversations that I had with you, I had always understood that you were an agent acting on behalf of Westferry Limited and possibly the Glebe Trust.

"I would be happy to try and comply with your request for copy documentation, but before doing so I will need to see letters of authority from both Westferry Limited and the Glebe Trust authorising me to send copies of any documentation to you that I may still have in my possession."

In response, on March 17th, 2006, Kevin Phelan sends you an authority in respect of Glebe Trust, and he asks you to forward Glebe Trust documentation, and the authority is from Charterhouse Trust Company Limited at Bourne Concourse, Peel Street, Ramsay in the Isle of Man, "authorising Kevin Phelan of Gameplan International to act as agent on behalf of Glebe Trust in connection with the release of documents.

"We understand this legal authority (SIC) is required specifically for release of documents and correspondence in respect of Mr. Christopher Vaughan, solicitor, care of Scott Fowler Solicitors, Old Church Chambers, 23/24 Sandhill Road, St. James, Northampton NNS 5LH.

"We also ask that a copy of all documents released are sent to the trustees of the Glebe Trust at the address mentioned above."

A. The letter actually says "legal attorney" rather than "legal authority".

Q. Sorry, I beg your pardon.

A. I read it the same way as you did.

Q. Sorry. Yes. Can you recall did you respond to that?

A. I think you'll find that

Q. Well, maybe if I am going to come to it?

A. I think if you'll continue through, you will see two letters further on.

Q. All right. The next passing over the fax transmission, the fax cover, whatever, the next document is a letter of

the 3rd April, 2006, from Kevin Phelan to Michael Dawe in Scott Fowler.

"Dear sir,

"Re Mr. Christopher Vaughan, consultant, we refer to correspondence recently received from your firm. We note that Mr. Christopher Vaughan is listed on your firm's notepaper as a consultant to your firm.

"We are enclosing copy correspondence which has passed between Mr. Vaughan and ourselves recently. We have had no response to our latest letter dated March 17, 2006.

"We are anxious that Mr. Vaughan responds as a matter of urgency to our letter as we are preparing proceedings in this matter. We would ask that you confirm to us that your firm's indemnity insurance covers any actions Mr. Vaughan takes in his current role within your practice.

"As Mr. Vaughan is well aware, he made significant alterations to documentation which passed between us previously, and Mr. Vaughan is on notice of a potential claim against him arising out of alteration made by him to documents without our knowledge or agreement.

"We can not stress enough the importance of your firm taking this matter seriously. We believe Mr. Vaughan is not taking the matter seriously, and we would therefore ask you to impress upon him the importance of an early response."

Scott Fowler then reply on the 5th April.

"Dear sir,

"Thank you for your letter of the 3rd of April. The writer needs to have a meeting with Mr. Vaughan when he returns to the office shortly, to assess whatever correspondence has taken place in order to obtain an understanding of the background to the matter.

"I confirm for the record that my firm has indemnity insurance with Zurich which covers any actions of Mr. Vaughan over a certain period, and it is that period that I need to investigate.

"No mention or indication of liability whatsoever will be made in any further correspondence between us, as that will be a matter entirely for our insurer to decide upon.

"I will refer back to you within 21 days from today's date, no sooner bearing in mind investigations required by my office and forthcoming Easter break.

"Please kindly note that I am the partner who is responsible for all professional matters of this nature within the firm and there is no particular need for you to duplicate correspondence to my other two partners, unless you have your own reason for doing so. Mr. Vaughan is, I am told, writing to you under separate cover in any event."

And you do write on the following day on Scott Fowler notepaper.

"Dear Kevin,

"Thank you for your fax of the 17th with this item Glebe Trust. In my letter to you of the 10th March I asked for a letter of authority from both Westferry and Glebe Trust, I

await the authority in respect of Westferry.

"In our dealings you were agent for various parties with whom I then acted. I never held direct instructions from you on any matters. That is why I must ask you for the appropriate authority from, in this case, Westferry.

"Once the authority has been received I can address your request. There are, as I recall, a substantial number of papers, and it will be a time-consuming exercise to look up the information that you have requested. I will need confirmation from your lawyers that they will be responsible for my fees or, alternatively, I would ask you to let me have a payment of  $\frac{1}{2}$ 2,000 on account of costs. My charge-out rate is  $\frac{1}{2}$ 220 sterling per hour and photocopies are charged at 15 pence per sheet.

"To keep costs to a minimum, if you have an idea of the particular matters that are relevant to your inquiry or the type of category of document that you are seeking, perhaps you could try and identify it for me.

"I await hearing from you."

Now, just I want to the next letter is your letter of the same date to the Ethics Department of the Law Society looking for guidance.

A. Correct, yeah.

Q. You say:-

"Dear sirs, I'd be grateful if you assist me on an ethical/regulatory question. From 1998 to 2002, I received a number of instructions relating to property transactions

from an individual, whom for the purposes of this letter, I will call P. P was introduced to me by a well-respected professional independent financial advisor in Northampton, who is still a current client and advisor personally to me and to this firm. Over the period of time that I was involved with P, I always regarded him to be an agent and not a principal. As, although the various transactions tended to start off in the name of a particular company which belonged to him, GT" is that right?

A. Yeah.

Q. "Within a very short period of time a client was identified as a separate purchaser or vendor and the transaction was completed and my fee paid.

"I always assumed that P was paid an introductory fee or commission by the client for whom the work was done and that my client always paid my fees."

It is reasonable to assume that P is Kevin Phelan and G is one of his companies; is that right?

A. Yeah, I think I was just following on the fact that he was looking for documentation relating to Glebe Trust. There is no point in going into the complications with the Law Society, it's just an identifying letter.

Q. "I always assumed that P was paid an introductory fee or commission by the client when the work was done and that client always paid my fees."

"Another reason I always assumed that P was an agent was that I never delivered a bill to him in respect of any

matters that he introduced to me and over the period of our relationship I never paid him any money and I never received any from him. Unfortunately, in 2002 the relationship broke down, and I am aware that P was then involved in litigation with one particular client, W, who had instructed me in several property transactions. I have never received any further introductions from P, although W, whom P introduced me has returned to me and I am dealing with a current transaction on their behalf. I was not involved in the litigation between P and W.

"I have now received a request from P asking for copies of all documentation that I have in my possession relating to his company, GT. As he is in the process of instructing counsel to draft proceedings against W, who is the company that I am currently acting on behalf of."

Who was W at this stage, do you know?

A. Westferry, who were the owners of the shares in DRFC.

Q. Right. And were you acting for Westferry in relation to litigation at that stage?

A. No, the only single issue I have ever acted for Westferry on was the acquisition of DRFC, nothing else.

Q. Okay. But have I missed something in the previous correspondence from Kevin Phelan? Did he say that he was in the process of instructing counsel to draft proceedings against Westferry?

A. I think was that not in an earlier if you look at the March 6th letter, second paragraph, "We are now preparing

documents for counsel and we require a copy of all correspondence..." So I took it from that, that he was looking to institute proceedings or at least get advice on something litigious.

Q. Against Westferry?

A. I assume so, yes. I didn't as you can see, I didn't inquire further than that.

Q. All right.

A. It is correct in my letter where it says he is in the process of instructing counsel, and the words "To draft proceedings" I think were words that I put in, I assumed

Q. I see, you assumed he was proposing to sue Westferry?

A. I assumed so.

Q. You said you were dealing with a current transaction on behalf of Westferry, do you see that on the third paragraph?

A. Yes.

Q. That can't be correct, is it, if, as you say, the only transaction you dealt with on their behalf was Doncaster?

A. So, which particular point are you referring to?

Q. Well, if I just read the paragraph again.

A. Can you just clarify which

Q. We will read the paragraph so we are ad idem on what my request is. We are now looking at the letter of the 6th April, your letter to the Law Society using P, G, T, W, and so on, as ways of identifying individuals or entities.

"I have never received any further introductions from P,

although W, whom P introduced to me, has returned to me and I am dealing with a current transaction on their behalf. I was not involved in the litigation between P and W.

"I have now received a request from P asking for copies of all documentation that I have in my possession relating to his company GT, as he is in the process of instructing counsel to draft proceedings against W, who is the company that I am currently acting on behalf of."

Well, where the last paragraph is concerned, you say that you assumed that he was proposing to instruct counsel to draft proceedings against Westferry. In the paragraph before that, you say "I am dealing with a current transaction on behalf of Westferry." Do you see that?

A. Yeah.

Q. Can that be correct?

A. It is, because throughout the whole of the transactions since the acquisition of the shares in DRFC by Westferry, I have continued to act for them and do today. So, that is the only matter.

Q. So the transaction you are referring to is still DRFC?

A. Correct.

Q. You go on: "A number of points arise out of this difficulty.

"1. P was never a principal. He was only ever an agent, although on various transactions I initially refer to my client as P's company GT, but then matters proceeded in the proper name of the principal.

"As an agent, is P entitled to see any documentation without the consent of the principal involved, even though the file was started off in the name of P's company, GT?

"2. All the relevant files have now been put into storage, as all transactions were completed some time ago, and I would guess there are about three cardboard banker's boxes of files.

"Is P allowed to visit my premises and trawl through these files or does he have to let me have a specific request as to documents he wishes to see?

"3. I can see that this can be time-consuming. Am I allowed to charge P for my time in looking and the costs of photocopying any relevant documents?

"What is my position as far as W is concerned, as the initial letter from P indicates that he wishes to take counsel's advice as to commencing an action against W?

"I look forward to hearing from you, and I would be very happy to discuss this matter over the telephone with you if it were more convenient."

The next document

MR. NATHAN: It struck me that it might be helpful for you, sir, just to go back to the letter of the 6th March, to the second and the third paragraph, in the sense that we have a question, as I understand it, about the involvement of Westferry and the proposed litigation or reference to counsel on the part of Kevin Phelan. But if one looks at the second and third paragraph, particularly the third one,

it seems it only becomes absolutely abundantly clear that this is it's all to do with Westferry. So, I am not sure quite what the point is My Learned Friend is seeking

MR. HEALY: This is the first time I have seen most of these documents.

MR. NATHAN: I am sorry, we are each looking at these documents relatively swiftly.

Q. MR. HEALY: Do you understand Mr. Nathan's interjection?

Because you can clarify it for me, Mr. Vaughan. Mr. Nathan is suggesting, I think, that if we go back to the letter of the 6th March, and he urges me to look at the third paragraph

MR. NATHAN: What one is looking at is Mr. Vaughan's understanding as to what he understood is the meaning of the 6th March letter addressed to him. You took him to the first part of the second paragraph, but if you read paragraphs 2 and 3, it may help. I am not trying to score any points, I just simply want to try to get clarification in everyone's mind.

MR. HEALY: Maybe we'll just all make sure we are putting these two documents together and reading them correctly.

Q. Will we go back for a moment to the 6th March? I think you should have it in front of you just to make it easier.

A. You can't see it, but I have it on my lap. I mean, in a broad brush way I looked at that letter. It says that "We are now preparing documents for counsel." My instinctive

feeling was that this was something to do with litigation, and that then concerned me, because I have no idea had I any documents that he wanted or not. But could I, even if I did, could I release them? That was my inquiry to the Law Society. And I have tried to make the Law Society letters as clear as possible by just using one name, GT. It could have lots of other guises that Kevin Phelan acted under, but I was just trying to get a clear ruling from them as to could I pass letters on or documents on? Because obviously that was my concern.

CHAIRMAN: But in any event, you have continued to act for Westferry and do so to this day?

A. That is correct, Mr. Chairman.

Q. MR. HEALY: In any case, I understand the position. I mean, it's not I am simply trying to understand the question. I am not suggesting it was in any way unreasonable for you to assume that there was litigation intended and that that was the purpose of it. I just couldn't fully understand your reference to continuing to act, because I thought that DRFC thing was completely over by then, but it obviously isn't, or wasn't?

A. Well, as set out in my statement this morning, the acquisition of the shares of DRFC was a two-stage process. What happened after the acquisition: One was to dispose of the playing element, because I don't, for all his skills, I don't think Kevin Phelan was a football manager. So, his number one aim was to get rid of that, which he did,

together with Aidan Phelan, to John Ryan's company called Patienceform. That then left Westferry holding the shares of DRFC. DRFC's only asset then after the players had gone to Patienceform was the two leases, the lease of the ground and the lease of the car-park. And it is that which was Kevin Phelan's aim, to secure that land so that a development could take place on that land. And that is what I was still involved in. Kevin Phelan is no longer involved in that. But those assets still belong to Westferry, and it's something I deal with from time to time. I think actually yes, I thought I had referred to it in another letter, but I can't remember now. But certainly that is the current position.

Q. All right. The document of the 7th April, 2006, is your file note

A. That's my file note.

Q. of a conversation with Mr. O'Malley of the Law Society, the one that you suggested would take place in any event in your letter, and you say: "Attending Austin O'Malley of the Law Society in response to my letter of the 6th of April which I had faxed through to him.

"He referred me to 16.01 of the Guide to the Professional Conduct of Solicitors which deals with client confidentiality.

"This whole matters rings on 'Who was my client?'

'Who paid my bill?'"

Another way of presumably asking the same question?

A. Mmm.

Q. "Who was registered as the owner of the property that was purchased or who was the owner of the property on the sale?

"In all those cases it was never Kevin Phelan.

"It seemed clear to Austin O'Malley that Kevin Phelan was never a client, he was only an agent.

"I would, therefore, be in breach of my solicitor's duty of confidentiality to my client if I passed any documents to him.

"Kevin Phelan is arguing that he was my client, I say that he was not.

"If such a dispute arises, then the only way that it can be resolved is by asking a court to decide as to who the client was.

"We never dealt with the question of costs because Austin O'Malley said that those matters were never going to arise because Kevin Phelan was quite clearly not my client and not entitled to see the documentation."

So, the conclusion of that discussion was that you felt safe in not responding to his requests on the basis that he wasn't your client.

The next document related to the same thing, is

Mr. Phelan's letter to you of the 10th April, 2006, re

Glebe Trust.

"I refer to your letter of April 6, 2006. Since you have now received the authority from Glebe Trust requested by you, please confirm that you will forward all

correspondence in respect of Glebe Trust. I know you are well aware Glebe Trust and Westferry Limited are two separate legal entities, and therefore documentation in relation to Westferry Limited can be released if and when you receive the authority requested.

"As requested, I am prepared to make a payment of costs on account to you, however I previously advised we reserve the right to have all your accounts examined by the Taxing Master.

"I note you suggest that I was an agent for various parties and that you acted for them. I reject this assertion completely, and I suggest that you examine all previous correspondence between us. I further hold you responsible for misleading a number of parties in respect of your instructions. I am enclosing a copy letter which may help jog your memory.

"Please advise me of your bank details and the amount of funds required to obtain the documents requested.

"CC Michael Dawe."

A. The reason that that's not signed, of course, is it's the carbon copy on Michael Dawe's file. The letter from Kevin Phelan isn't the signed

Q. Of course, yeah. It's Michael Dawe's file we are looking at?

A. The provenance of the file which I managed to find, yeah.

Q. In the letter to you, he says he was enclosing a copy letter?

A. Yes, that's the next document.

Q. I see. Are you sure that's right, the next document?

A. I think so. Perhaps not.

Q. If you look at his letter again "I am enclosing a copy letter which may help jog your memory"?

A. That's not in the file.

Q. Right. It's not in Mr. Dawe's file anyway. Can you remember what the letter was?

A. I can't remember.

Q. And where would you have filed it? In what type of file would you have placed correspondence of this kind?

A. It would be in an ordinary paper file.

Q. I appreciate that. But how would you have identified the file? A Kevin Phelan file? A Law Society file?

A. I think actually I would have put it I have a filing cabinet in my room, or a particular drawer of it where I have in it matters relating to the renewal of my practicing certificate for solicitor, for notary, correspondence with the Zurich, who used to be my insurers, and then when I carry on with Scott Fowler, their insurers, because this was a potential claim, and insurers have to be told, and I think I would have put it in that drawer. Now, there is other sorts of odd bits of personal stuff in that drawer, but it is certainly not there, because I had a real search, you know, trying to find it. So that's where it would have gone.

Q. You know that in your in the list of queries you

addressed to the Law Society, you wondered what your position was in relation to Westferry. Did you get an answer to that, can you recall?

A. Well, I think it's really in the letter, the reply to Kevin Phelan.

Q. I see.

A. I think when we get to that, the Westferry element will become obvious.

Q. All right. Okay. The letter of the 10th the next letter of the 10th of April is simply an acknowledgment of Mr. Dawe's letter, in which Mr. Phelan refers to the reference Mr. Dawe makes to having discussions with you and awaits a response.

The next letter of the 13th April, 2006 maybe I'll just read it out. It's:-

"Dear sir,

"Re Mr. Christopher Vaughan, consultant.

"I acknowledge receipt of your letter dated 5th April, 2006.

"I await your response following your discussions with Mr. Vaughan. Incidentally, I would ask you to clarify with Mr. Vaughan why he altered documentation sent to us for the purpose of misleading others and seriously undermining our legal position.

"I would further ask that you confirm the actual period of your indemnity insurance for action taken by Mr. Vaughan."

Then the next letter is a response by you on Scott Fowler

notepaper to Kevin Phelan which you say "Dear Kevin, re Glebe Trust.

"Thank you for your letter of the 10th April, 2006."

Now you are referring, presumably, to the letter that was sent to Mr. Vaughan of which a copy was cc'ed to you?

A. Mmm, yeah.

Q. "Your letter highlights the difficulties that I face. I have always understood, and have stated in previous correspondence, that you were an agent for various parties, you dispute this and say that you were my principal.

"In support of your argument, you have produced a letter from me dated 7th December, 1999, confirming that:

"1. I acted for Gameplan, of which you were an officer - that is correct, but Gameplan, in my opinion, were agents for various principals. For example, the transaction in Wigan, where Gameplan negotiated the deal, but all the draft documents were in the names of separate principals and not in the name of Gameplan.

"2. I acted for a company called Catclause Limited, but that company was a separate legal entity and was not yours as principal.

"Therefore, we have a difference of opinion as to whether you were my client as a principal, or whether you were an agent for our principals.

"I, obviously, do not want to get into the difficulties over this matter, and I have sought advice from the Ethics Department of the Law Society, and their advice to me is

that if I have any doubt whatsoever, then I should not hand over any paperwork or documentation over to you.

"The Law Society have also advised that if I do hand documentation over to you which was privileged and should not have been handed over to you without the consent of a third party, then I may be in very serious difficulty with the Law Society and with that third party and lay myself open to disciplinary action.

"The Law Society have advised that the correct course for someone to take if there is a dispute as to the ownership of documentation is for that person to make an application to the Court and for the Court to make a ruling. I can then comply with an act in accordance with the ruling of the Court.

"I very much regret that this situation has arisen, but I simply cannot hand over documents where I think there may be a third party claim.

"Michael Dawe has shown me your letter of the 10th of April. He will not be responding to you, as he considers all your queries have been dealt with."

On the 18th April, 2006, Kevin Phelan replies. His letter is addressed to Mr. Dawe. It says:-

"I refer to my letter to you dated 10th April, and the letter received by me from Scott Fowler Solicitors dated April 13th, 2006.

"It is clear to me that Mr. Vaughan and Scott Fowler Solicitors are refusing to cooperate with me in obtaining

the relevant correspondence for counsel as requested. I am satisfied that Mr. Vaughan was acting for me and companies associated with me and also clients which I introduced to him previously. However, Mr. Vaughan is refusing to accept this position.

"In my letter to you dated April 10th, 2006, and previous correspondence between us, I specifically asked you to discuss with Mr. Vaughan alterations made to documents by him. I note in Mr. Vaughan's letter to me dated April 13th that you will not be responding further to me, however this position is contrary to the position outlined by you in your letter to me dated April 5th, 2006.

"In any event, I am now proceeding to take advice from the Law Society, as Mr. Vaughan has elected to do in respect of these matters. I am enclosing for your information a number of letters which are marked A and B. I confirm having received the letters marked B and confirm the letters marked A have been submitted by Mr. Vaughan to the Moriarty Tribunal in the Republic of Ireland. The adjusted letters have been issued without my knowledge or agreement, and I had previously requested Mr. Vaughan to correct these matters. At this time I am unsure if Mr. Vaughan has carried out my request.

"I believe the altered letters might have misled the people to whom they were issued and also as a result other authorities in the Republic of Ireland."

The next document is the final document in that divider,

which is your letter in response, dated the 11th May, 2006,  
to Kevin Phelan.

"Dear Kevin,

"Michael Dawe has requested me to deal with your letter of  
the 16th April, together with its enclosures.

"The question as to the different versions of various  
letters has been explored extensively by the officers of  
the Tribunal of Inquiry in considerable detail both in  
correspondence and when I appeared in private before them  
on two occasions.

"There is nothing further to add, and so far as I and Scott  
Fowler are concerned, this correspondence is at an end."

In the previous letter, the one to which you were replying,  
Mr. Phelan refers to enclosures, do you notice that, in the  
second-last paragraph? Can you indicate why these aren't  
on the file Mr. Dawe kept?

A. Sorry, just repeat that again?

Q. Do you know why these weren't on the file?

A. I don't know why they are not on the file, no, no.

Q. You, presumably, must have examined them?

A. Yes.

Q. Presumably they are referring to the long form/short form  
letters?

A. I think that must be right.

Q. Because that's what your response seems to suggest.

Now, the next documents, and indeed, most of the rest of  
the documents I hope can be disposed of without having to

read them in detail, unless you want me to read any of them in detail?

A. When I was sort of having yet another look for paperwork, I have discovered this miscellaneous file which I had referred to previously. These are sort of one file matters, or one letter matters, look at this, look at that, can we advise on that? That they were in one file. This is what I have produced.

Q. All right. I think what we'll simply do is perhaps just identify them.

The first item, the first two, Hull Football Club

A. No, I think the first document there has got "M&P Associates - Current Projects." This is a list that must have been

Q. Sorry, I thought that was a list of documents. This is itself a document, yes, I follow.

A. I think this is a document that must have been given to me by Kevin Phelan saying this is what we are dealing. In the left-hand margin there is a CV and those must be items that I had dealt with. So, I have no knowledge of anything else that's on that list other than those.

Q. I follow. So the ones you dealt with were Hull Football Club, Chesterfield Football Club, Bornmouth Football Club and Doncaster Football Club?

A. Yes, the hole punch(on the binder) is gone through "site at Finnigley," which is number 4.

Q. Site at Finnigley, I see, that's the RAF site, right. The

first divider then appears to contain a few documents

relating to

A. If I can help you? It's about, it's a few documents about

Chesterfield Football Club. There is a confidentiality

agreement, and obviously the matter went no further. The

handwriting on the documents there is my handwriting.

Q. And this seems to be a transaction that was being canvassed

in 1997. Perhaps the latter part of 1997, judging by

A. Probably, yes.

Q. The next divider, Divider 4, appears to be a document from,

a letter from an entity called Waggy's Umbro Soccer School

to Kevin Phelan, about starting up some kind of soccer

centres, is that it?

A. I think so. In the top right-hand corner of that letter it

says "CJV to read and advise 1 /9/'98," so I presume he

did. Answering the summons, this was a document that I had

found relating to Kevin Phelan.

Q. The next document is just a letter from Morton Thornton

accountants enclosing informing you that an annual

return for the company had been sent to the client for

signature. This is Mr. Phelan's own company?

A. Yes. You recall earlier on that Gameplan International had

its registered office at our office. I assume that the

Inland Revenue had sent the return to us. I had sent it on

to the accountant.

Q. The next one is a one-page document, or a one the next

divider contains only one page. It's a letter to you, or

from you to Mr. Phelan, about a company called Avoneve and some problem about annual returns. It doesn't seem to be of much significance; is that right?

A. Mmm.

Q. Just, unless you want to draw my attention to anything in these documents, there is just one point of information I want you to perhaps throw some light on. If you go to Divider 7?

A. Right.

Q. If you go to the fifth page, I think.

A. There is a handwritten note there which says "John Leonard." The fact that it says "Smyth Dubb Chartered Accountants", that was written on a free notepad that they had handed out, it's nothing to do with them.

Q. It's nothing to do with them?

A. It's an advertising sorry, whereabouts was it?

Q. Go to the fifth page.

A. Yes.

Q. You see where is this a letter from you?

A. It is, yes. Is this the 5th September, 1997?

Q. Yes.

A. Yeah.

Q. And it's addressed to Kevin Phelan, care of Maher Meats, High Street, Weedon. Do you know if that's an address you corresponded to Mr. Phelan at?

A. Yeah, I mean, if we go back to the first meeting I ever have with Kevin Phelan, this one at the Stackis Hotel in

Northampton, he turns up, of course I have never met Kevin Phelan before, but one of the other three people there was a man called Maher, if that's how you pronounce his name.

So, at that stage I had associated them and he had presumably given me that address to write to him. That's why the letter was sent there, I assume. I met this man once and that was it. I don't know him.

Q. Okay.

A. I think this is a matter that didn't go any further either, it's just a few letters.

Q. Who do you understand M&P to be?

A. M&P?

Q. Yeah.

A. Maher and Phelan, it's a partnership, M&P, it's a trading name. I don't think there is any in my paperwork, but there is some notepaper I have seen somewhere with M&P Associates written on it, and if you at the bottom it's got Maher and Phelan Partners.

Q. And is it this Mr. Maher?

A. It's same man, I think.

Q. It's the same man?

A. I think, yes. I mean... again, I met him once and I assume that I was told to write to Kevin Phelan at that address.

I am just having a quick look at my yeah, I was presumably given that address and wrote to him there.

CHAIRMAN: Gameplan itself, Mr. Vaughan, it was a UK company that you were involved in creating?

A. Yes, Mr. Chairman, without looking it up on Companies House, I can't remember when it was incorporated, but its full title is Gameplan International Limited and my recollection of that is I was asked to help form it as a private limited company in England and Wales. The reason for that; it's quite easy to acquire a company off the shelf in England and Wales, but if you want to put a sensitive name within the name of the company, and the Companies House people keep a list of sensitive names, and one of them is a word "international," they won't allow you to put "international" unless you can be, you can persuade them that the company has an international dimension.

CHAIRMAN: And that was the point, I seem to recall, in the particulars relating to Gameplan, suggesting principal place of business in Monaghan, which would be in this jurisdiction. Am I correct in that?

A. I wouldn't know, I am sorry. My geography of Ireland isn't good enough to answer that.

CHAIRMAN: All right.

Q. MR. HEALY: Now, Mr. Vaughan, if you'd go to Book 81A, I'll get you a copy of it if you don't have one. I am going to go through quite a lot of documents in this book in detail, but firstly I am simply going to open most of them to you, deal with one or two housekeeping matters. We'll avoid repetition as much as possible because there may be quite a lot of it.

A. Okay.

Q. And there may be a few other documents that I'll refer to, and I'll, as we are not going to get very many of them done now, when we adjourn at four o'clock, I'll let you know what the other ones are that I want to go through in some detail and then that will make it easier for us to look at documents generated in the various transactions at a later point. These documents mainly contain your responses to the Tribunal or to other people containing your accounts of the various matters that the Inquiry is looking into.

A. I am sure if you speak to Stephen Nathan, there must be a way of speeding up the disclosure of documents.

Q. Well, you have them all. Now, the first document is your is the Tribunal's letter of the 20th April, 2001, to you. I think it's the first inquiry of the Tribunal to you from Mr. John Davis, then Solicitor to the Tribunal?

A. Yeah.

Q. I think it's a letter that I should perhaps read out in full.

"I am writing to you in my capacity as solicitor to the Tribunal of Inquiry appointed by the above order of the Irish Parliament. I enclose herewith a copy of the Terms of Reference of the Tribunal. My purpose in writing to you is to seek your assistance in the course of the investigative phase of the Tribunal's work. In this phase of its work, the Tribunal is engaged in the process of gathering evidence or information which may lead to evidence material to its Terms of Reference. Documents or

information provided to the Tribunal will remain strictly confidential, unless in the absolute discretion of the Sole Member they are or they become material to the Tribunal's Terms of Reference and appropriate to be led in evidence at public sittings of the Tribunal.

"The Tribunal has been informed by Mr. Aidan Phelan and by Investec Bank (UK) Limited (formerly GE Woodchester Bank Limited) that in December 1999 a loan of £420,000 sterling was advanced to a UK registered company, Catclause Limited, for the purposes of financing the purchase of a property at Cheadle. The bank was not aware at the time but has recently become aware that Mr. Michael Lowry (who is mentioned at paragraphs E to H of Tribunal's Terms of Reference and his daughter were directors of the company.) The funds were transferred by the bank to your client account. The Tribunal has been informed that as regards this transaction, you were acting on behalf of Catclause Limited, Mr. Michael Lowry and Mr. Aidan Phelan. The loan to Investec Bank has recently been discharged by Mr. Phelan.

"The Tribunal has been informed that the title to the property was not taken in the name of Catclause, but was taken in your name and the name of your wife as trustees. It appears from correspondence which has been produced to the Tribunal by the bank, that you informed the bank that it had been intended that Catclause should acquire title to the property, and that on closing it was decided that you

and your wife should take the property as trustees for Mr. Phelan; that Mr. Phelan had instructed you to transfer the property to Catclause; and that you and your wife held the property as Trustees for the benefit of either Catclause or Mr. Phelan and Catclause.

"From documents produced to the Tribunal by Mr. Phelan, it appears that by letter of the 8th February last from your firm to Messrs. Meller Braggins in connection with the Cheadle property, you indicated that you acted for a client who acquired property from time to time for investment or development opportunities, and that some of those properties were put into a trust of which you and your wife are trustees."

Then the Tribunal indicates that waivers of confidentiality had been obtained from Mr. Lowry and Mr. Aidan Phelan. And the Tribunal indicated that it wished to obtain copies of documents in your possession, and you were asked for an early response.

Your response is then contained in the next document, 25th April, 2001.

"Re Michael Lowry, Aidan Phelan, Catclause Limited, St. Columba's Church site, Stockport.

"I refer to your letter of the 20th April and our telephone discussion on Monday, 23rd April.

"I confirm that I received your fax letter of the 20th April, and I have now received on the 25th April the hardcopy through the post.

"Dealing with your letter of the 20th April, I have been made aware by both Aidan Phelan and Michael Lowry that you may contact me asking me to supply any information from my files as to the purchase of the property known as St. Columba's Church, Stockport, Greater Manchester.

"Thank you for letting me have details of the Terms of Reference of the Tribunal, and I confirm what I said to you on the phone, that I am very willing to cooperate in any way with the Tribunal.

"I confirm that I acted for Michael Lowry, Aidan Phelan and Catclause Limited in the purchase of this property.

"Contracts were exchanged for the purchase of this property on the 9th September, 1999, and completion took place on the 21st December, 1999.

"A deposit of £44,500, being 10% of the purchase price, was paid by me from funds held on my solicitor/client account in the names of Aidan Phelan, Michael Lowry and Catclause, on exchange of contracts on the 9th September, 1999.

"Subsequently I received into the same client account from GE Woodchester Bank by CHAPS transfer on 21st December, 1999, the sum of £420,000 sterling. That money was immediately utilised on that day and was paid to the solicitors acting on behalf of the vendors of the property so that the transaction could be completed.

"I was surprised at the reference in your letter to the fact that the bank was not aware that Michael Lowry and his daughter were directors of Catclause Limited. I would have

imagined that the usual due diligence inquiries carried out by the funder would have established the identity of its client at the time of making the loan.

"So far as I am concerned, the whole transaction both as to the identity of all parties concerned was totally transparent, and for reasons that I cannot at this stage actually recall (save that I was made aware of it by Aidan Phelan that there was a difficulty with the guarantor of the loan to Catclause) it was decided in December 1999 that Catclause was an inappropriate vehicle to acquire the property.

"It was, therefore, agreed as a temporary measure that the property should be held by my wife (who is also a solicitor) and myself as trustees on behalf of Catclause and/or Aidan Phelan, until such time as it was decided in what name the property was to be placed in.

"However, it was not until January 2001 when the bank seemed to have a compliance problem that Aidan Phelan then suggested to me that the property be transferred back into the name of Catclause Limited. There was, therefore, a gap of some 13 months between the acquisition of the property and that suggestion, whereas the second paragraph on the second page of your letter seems to indicate that there was no time gap between those two incidents.

"As mentioned to you on the phone, my files are in two parts. The file relating to the acquisition, the property, the subsequent marketing of the property and correspondence

I have had with the two agents concerned, Messrs.

Chestertons and Meller Braggins.

"The very clear instructions I have, both from Aidan Phelan and Michael Lowry, are to make available all paperwork to you that you require, and I am perfectly happy to do so.

"However, it seems to me that you probably only require the paperwork relating to the purchase of the property and not the subsequent paperwork as to its sale, which is, of course, an ongoing file as the property has not yet been sold. The file is, therefore, current and I am dealing with matters on it at the present time.

"I am, therefore, faxing this letter through to you initially to inquire if you require all the paperwork or just that part relating to the acquisition of the property."

Now, the Tribunal wrote looking for further information on the 15th May, 2001. This is contained, this request is contained in Divider 2. It says:-

"I refer to recent correspondence regarding the property acquisition in which you acted on behalf of Catclause Limited and Mr. Aidan Phelan. The Tribunal has now had an opportunity of reviewing your file, and I am writing to request that you would assist the Tribunal with regard to queries that have arisen from that review and which are as follows:

"1. It appears from the contents of your letter 9th September, 1999, to Messrs. Towns Needham & Co that you

forwarded to them a cheque for £27,500 in part payment of the 10% deposit, and informed them that the balance, of £17,000, had been promised to you by your clients by telegraphic transfer by 13th September, 1999. The Tribunal wishes to know by whom the funds had been promised to you, from whom you received the further £17,000, and whether it was received by telegraphic transfer, and if so, the identity of the paying bank and the account in which the funds were received. If the funds were not received by telegraphic transfer, please let me have details of how and by whom the funds were paid."

The next query concerns an undated handwritten note in your file of the 4th January sorry, an undated, I beg your pardon, handwritten note on your file between the letters of the 4th January and the 11th January, 2000, and you were asked for an indication or an explanation of its contents.

The next query is as follows:-

"In the course of correspondence on the file, you made repeated references to a trust under which you and your wife held the legal title to the Cheadle properties as bearer trustees. In this regard I would refer you to a letter of the 26th of January, 2001, to Nigel Glassy, and your letter 8th February, 2001, to Mr. B. Shelmadine of Messrs. Meller Braggins.

"Furthermore, in your letter of the 27th February, 2001, to Messers Ellisheads(?) you stated as follows: 'I do not currently have the trust deed in my possession.

"The Tribunal wishes to obtain details of the trust deed and there are a number of queries regarding the trust deed."

The next query concerns a letter of the 1st March to Investec Bank, in which you set out the history of the property transaction and the status of the title, and you refer to a telephone conversation with Aidan Phelan. There does not appear to be a note or an attendance on your file, and perhaps this was overlooked and you were asked for a copy.

You were then referred to the waivers of confidentiality, and the Tribunal also invited you to, if possible, come to meet in Dublin to assist with its inquiries.

In your response, you refer to the first of the inquiries concerning the deposit for Cheadle. Now, the deposit for Cheadle was  $\text{€}44,500$ , isn't that right, that's mentioned in your statement?

A. Yes.

Q. The letter that was being referred to of the 9th September, 1999, you probably remember the contents of it. I don't know if we can put it on the overhead projector I don't want to bulk up the book by putting it in.

Essentially, I think I can summarise the effect of it.

It's a letter from you to Towns Needham enclosing a signed contract on behalf of the purchaser, Catclause, with a cheque for  $\text{€}27,500$  and indicating that the balance of  $\text{€}17,000$  had been promised to you by the following Monday.

Isn't that correct?

A. Yeah.

Q. In your letter you say "I appreciate what is written in my letter to Towns Needham. I believed that at the time that letter was written, I had required a further  $\frac{1}{2}$ 17,000 to enable me to pay a full 10% deposit. It was then pointed out to me (I suspect by Kevin Phelan on the telephone although I have no note of this) that I should have had a full 10% deposit in my possession to enable contracts to be exchanged. It was then appreciated by me that I had misread the client account and I was in funds and had been the whole of the time. I enclose an extract of the client account movement from which you will see the payment of deposit of 44,000 on the 14th September 1999. This was actually in the form of two separate cheques: one for 17,000 and one for 27,500."

Just to clarify that. Do I take it that you did send the cheque for  $\frac{1}{2}$ 27,500 first and that you sent the other one right away without waiting until the following week?

A. I am just looking at this page at the end, which is the Client Account movements. I think it's there as one sum: 44,500.

Q. We'll just put the Client Account up on the overhead projector.

A. I suspect that I simply don't know. I think if I look at the file again, the purchase file, there may be a note or a letter from me sending the balance. I can't remember

at this stage.

Q. Can you just tell me one thing about this document from the Client Account, and maybe this is where the problem arises.

It's headed "Michael Lowry, Aidan Phelan re Mansfield and St. Columba's Church" so presumably it's the Client Account that came into existence by the time the Cheadle transaction, or sorry, it's the Client Account that represented the state of affairs by the time the Cheadle transaction, which was the second of the two transactions you were handling for Michael Lowry, had come to pass?

A. This actual document, this financial account was drawn up by David Rockwell who is my accountant, because I wanted him to show in a single document the flow of funds that have come in and gone out. It is not the actual Client Account, because a Client Account sorry, the Solicitor's Account would have both Office and Client Account on the same ledger. But this was just meant to show you the flow of funds that had happened.

Q. All right, well you can understand the confusion that this causes for me because it's referred to as an extract from the Client Account. It's a sort of a reconstitution, is it?

A. It's meant to make life easier to show what money came in and what money went out and to show balances.

Q. So it was generated by your accountant to enable you to respond to the query from the Tribunal

A. Yes.

Q. in any event, and would the Client Account at this stage, I don't know how long solicitors keep their Client Accounts, would the Client Account at this stage indicate what actually happened?

A. It would show if there were two separate cheques, one of 27 and one of 17, yes.

Q. I see. The next query you respond to at paragraph Roman numeral (ii) is the handwritten note mentioned in the Tribunal's solicitor's letter, which is undated, but between letters of the 4th and the 11th January, 2000, and you have explained the note as follows:-

"Michael T - St. Columba's

"AP - now is to be the owner of this site - but mortgaged to bank - do we have forms to be used? I will be in Dublin early February, perhaps we could meet, tried AP out."

And you go on to say: "I appreciate there is no date on that note. It was obviously made on or just before the 11th January as the following letter refers to it."

Michael T is Michael Tunney?

A. Correct.

Q. Michael Tunney was the executive in Woodchester Bank that you were dealing with in relation to the funding of this purchase, the funding of the balance of the purchase price of this purchase?

A. He was the person I spoke to. I don't know what his position was, but he was the individual I spoke to on the telephone and wrote to subsequently.

CHAIRMAN: Did you know immediately it was a bank that was in the course of being taken over by Investec, it was merely GE Woodchester was represented?

A. Yeah, I had no knowledge of that until later on.

Q. MR. HEALY: Can you remember receiving that phone call from Mr. Tunney?

A. No, but I obviously received a phone call because I wrote about it a little later on.

MR. LEHANE: Sorry, Mr. Chairman, where would we find that document there?

MR. HEALY: Sorry, as far as I know all of these documents haven't been put into the book so as to avoid bulking them up, but they are available in other books. I have some extra copies.

MR. LEHANE: And are these documents contained already in 81, Mr. Healy?

MR. HEALY: Yes.

MR. LEHANE: They are just being inserted here?

MR. HEALY: Yes.

Q. As a solicitor, and having regard to some of the matters we were canvassing earlier this afternoon about client confidentiality and so on, did you regard it as in any way surprising that a banker would tell you who was to be the owner of a property that you were buying for another client?

A. Well, at this time he had sent me the money and I had used the money.

Q. I appreciate that, but you were acting

A. So that answered my question.

Q. But I think you have earlier in the afternoon you explained quite well in the course of your correspondence with the Law Society and with Kevin Phelan how sensitive you'd be as a solicitor to issues of client confidentiality and so forth. And here you have did you regard it in any way surprising that a banker would be ringing you up and telling you that your client was not to be the owner of the property, but that somebody else was to be the owner?

A. Well, I could imagine circumstances where I would be concerned, but in this case, of course, we had the telephone conversation I had with Michael Tunney before Christmas, when we were anxiously awaiting these funds to complete the purchase. So he was somebody who was known to me. I then faxed him a letter confirming the contents of that telephone conversation. The money had then come. So he was as good as his word. And then he speaks to me after Christmas when I am back from my holiday and presumably he is back at work. And that was the note I took, "Michael Tunney - St. Columba's Church - AP is now to be the owner." In fact, interestingly enough, looking at that, it then says, "Are there any forms?" I think. "Do we have any forms? A mortgage deed."

Q. We'll be looking at it maybe tomorrow, but the discussion you had with Mr. Tunney before Christmas was with a view to putting the finance together in the case of a transaction

when there was virtual panic; isn't that right?

A. When there was virtual?

Q. Virtual panic. You saved the day?

A. We were under pressure to complete the purchase, because a

Notice to Complete had been served. What happens in a

conveyancing transaction is you have a contract which then

makes it a binding arrangement for the seller to sell and

the buyer to buy. Within that contract is a completion

date, but that completion date does not generate a penalty,

other than the payment of interest, if it's not adhered to.

To crystallise that date and turn it into a penalty clause,

if I can put it like that, you serve a Notice to Complete.

So, under the current standard conditions of sale, you

serve your Notice to Complete, and if you don't comply with

that within the time-limit set out in the notice, then you

are liable to the sanction of forfeiting the deposit. A

Notice to Complete had been served in this case by

Mr. Oldham of Needham Towns, Towns Needham, whatever they

were. So we were in danger then of forfeiting the deposit,

and we may look at this tomorrow, but I had to write a

particularly groveling letter to Mr. Oldham saying to him,

you know, please hold off, please. Because he could have

quite properly and quite legally taken the  $\frac{1}{2}$ 44,500 and the

contract would have then been at an end and they would have

still had the opportunity, if they wanted to, to sue for

any losses if they then sold the property for 420,000 less

the deposit paid. So, yes, we were panic is probably, I

think, the wrong word, but we were under extreme pressure to complete the deal.

Q. You were coming up to Christmas, I think?

A. Yeah, I mean, I am a busy solicitor. I do conveyancing.

This is a conveyancing job. It wouldn't have been the only one sitting on my desk, but it was the one causing me more concern than anything else.

Q. Because there was no money?

A. Yeah.

Q. And you had exchanged contracts on this on behalf, as you saw it, of Michael Lowry's vehicle Catclause; isn't that right?

A. Correct, yeah.

Q. So, Michael Lowry hadn't come up with the money.

Eventually he arranges for Mr. Tunney to contact you and Mr. Tunney promises you the money?

A. Yeah, I don't know I think it was Aidan Phelan who contacted Mr. Tunney. But let's put it like this:

Mr. Tunney phoned me and he then took over well, he came up with the money.

Q. He took over what?

A. He took over sending the money to me, is what I was trying to explain. So he spoke to me, the money came. So, when he speaks to me afterwards, I don't see - going back to your original question - I don't see that there is a breach of confidentiality because he was a professional banker that I was dealing with, he wasn't somebody who had rung up

out of the blue.

Q. I fully understand all of that, that he had, if you like, I suppose the way you put it, he had come to you through your clients?

A. Yeah.

Q. In any case, you were, for the reasons you have mentioned, happy to deal with him?

A. Yeah, I had no reason not to deal with him.

Q. You didn't do what he said though, you didn't put the property into the name of Mr. Phelan, did you?

A. You mean Catclause sorry, it happened at a later date.

Q. No, no, no, but Mr. Phelan is now to be the owner of the site but mortgaged to the bank. You didn't do that at that time?

A. No, because they hadn't sent me any paperwork.

Q. I know, but you didn't do it in January either?

A. I couldn't do it without the paperwork.

Q. Or February, or March, it was never done?

A. Without the paperwork I couldn't do it. If the bank wanted to be protected, they would have sent me a mortgage deed.

Q. But you could have put the property into the name of Mr. Phelan, the bank could always have got the bank's mortgage would have come from the owner of the property, whatever forms are involved, if the property is to be mortgaged, it's to be mortgaged to the bank just bear with me for the moment and tend to what I am saying now.

If the bank's mortgage is to be created, it's to be created

by the mortgagor, the owner of the property, in favour of the bank, the mortgagee; isn't that right?

A. Mm. But then the bank wouldn't have been protected under the Land Registry rules unless you contemporaneously register the charge with the transfer, then the bank has got no protection.

Q. I appreciate that.

A. So without the forms, there is I had nothing to do.

CHAIRMAN: I think it's probably a period now, Mr. Healy, where we could adjourn until tomorrow. I am only too conscious, Mr. Healy, of the difficulties of taking even a legal professional witness like Mr. Vaughan through a very large volume of documentation, some of which has come rather recently to light, but I am just wondering in the context of my remarks this morning, is there any benefit to be obtained by starting marginally earlier or by

MR. HEALY: Half ten if you wish, sir?

CHAIRMAN: Yes, we'll make it that, if that's convenient for you, Mr. Vaughan?

THE TRIBUNAL ADJOURNED UNTIL THE FOLLOWING DAY, THE 22ND  
APRIL, 2009, AT 10.30AM