

THE TRIBUNAL RESUMED AS FOLLOWS ON THURSDAY, 24TH FEBRUARY

2000 AT 10:30A.M.:

MR. COUGHLAN: Mr. Barry.

MR. GLACKIN: Mr. Chairman, my name is Mr. Glackin, I represent Mr. Barry and Ms. Angela Malone from CRH.

CHAIRMAN: Thank you for your attendance.

MR. ANTHONY BARRY, HAVING BEEN SWORN, WAS EXAMINED AS FOLLOWS BY MR. COUGHLAN:

Q. MR. COUGHLAN: Mr. Barry, I think you furnished a Memorandum of Evidence for the assistance of the Tribunal, and I just wonder do you have that with you in the witness box?

A. I do.

Q. What I intend doing will be to go through the Memorandum. I may ask you a few questions to clarify that may arise during the course of it.

And you say the Memorandum is in response to a request for a Memorandum of Evidence and that you set out in the Memorandum matters referred to by the solicitor to the Tribunal and you confirm that all those matters which you believe to be relevant to the Tribunal's terms of reference, is that correct?

A. Yes.

Q. And I think in the first instance the Tribunal was

interested to know the details of circumstances surrounding the late Mr. Desmond Traynor as deputy chairman and subsequently chairman of CRH plc bearing in mind that Mr. Traynor left Guinness & Mahon in 1986 without being appointed to CRH, whether it had been intimated to Mr. Traynor that he could anticipate being appointed chairman. And I think you were requested for details to the extent to which the board were aware that prior to Mr. Traynor leaving Guinness & Mahon, an investigation had been carried out which reflected badly on the manner in which aspects of the bank's operation being carried out during Mr. Traynor's period as joint managing director.

I think that was the first query raised with you, isn't that correct?

A. Yes.

Q. And I think you've informed the Tribunal that Mr. Traynor was a non-executive director of CRH plc since the merger in 1970 of Irish Cement Limited and Roadstone Limited and had been a non-executive director of Irish Cement Limited prior to 1970; is that correct?

A. Correct.

Q. I think you have told the Tribunal in your Memorandum that Mr. Michael Dargan had been chairman of the company since late 1973 and that a board meeting on the 9th of April 1986 announced his intention to resign as chairman at the Annual General Meeting in 1987; is that correct?

A. Correct.

Q. And at the same board meeting a resolution was proposed by Mr. Dargan, the chairman, and seconded by the chief executive, that Mr. Traynor be appointed deputy chairman with immediate effect?

A. Correct.

Q. The resolution was passed unanimously and a press release was issued by the company to that effect on the 9th of April 1996?

A. Correct.

Q. I think you informed the Tribunal that at a board meeting on the 13th of May 1987, Mr. Dargan formally tendered his resignation as chairman and a resolution was proposed by Mr. Dargan, seconded by the chief executive and passed unanimously, that Mr. Traynor be appointed chairman with effect from the end of that meeting and he then assumed the chairmanship; is that correct?

A. Correct.

Q. I think you informed the Tribunal that your recollection is that it was understood that Mr. Traynor would move from deputy chairman to chairman in 1987 save in the event of any unforeseen eventuality, but you do not know for certain if this was specifically stated to him, that's to Mr. Traynor, I take it.

A. Correct, yes.

Q. And I think you've informed the Tribunal that you do not recollect if it was known in April 1986 when Mr. Traynor was to leave Guinness & Mahon, but in May 1987 when he

became chairman, it was known that he had resigned his executive position with the bank; is that correct?

A. Correct.

Q. And you've informed the Tribunal that your recollection is that it was known prior to his appointment as deputy chairman, that by the time he would become chairman, he would not have any executive positions.

A. Correct.

Q. That is when he became chairman when it was time for him to become chairman of CRH, he would have no other executive positions; is that correct?

A. Correct.

Q. Now, I think you've informed the Tribunal it was not known by you and you were not aware that any other directors knew that there was any investigation into Guinness & Mahon which reflected badly on Mr. Traynor until you read it in the schedule attached to the Tribunal's letter of the 14th of January last; is that correct?

A. Right.

Q. That you informed the Tribunal that you do vaguely recollect some press comment about some loans given by Guinness & Mahon which had defaulted.

A. Correct.

Q. And you understand that before Mr. Traynor was elected deputy chairman, another director who was as senior as Mr. Traynor in CRH plc, was asked to consider putting his hat on the ring but that he declined this.

A. Correct.

Q. Just dealing with that particular aspect of your Memorandum, I think you have until you were informed by the Tribunal about some loans that had gone wrong in Guinness & Mahon, you had no actual knowledge of that around the time he became deputy chairman, but you had some vague recollection of press reports or speculation about loans that may have gone wrong?

A. Yes.

Q. So when you say that another senior director who would have been as senior as Mr. Traynor

A. Correct.

Q. had been asked to put his hat on the ring but declined, there was only one hat on the ring?

A. Effectively.

Q. Now, I think the Tribunal asked you for details of dealings between CRH plc and the late Mr. Traynor prior to his appointment; isn't that correct?

A. Correct.

Q. And I think you've informed the Tribunal that Mr. Traynor had been director of CRH plc since 1970 and had been a member of the board committees for much of this time. He would have attended many meetings before his appointment as deputy chairman and chairman, but you are not aware of any dealings between the company and Mr. Traynor.

A. Correct.

Q. So Mr. Traynor had an active involvement in the committees

and the board of CRH from the early 1970's; is that

correct?

A. Indeed, from its foundation.

Q. As a non-executive director.

A. As a non-executive director.

Q. And then in 1986 he became deputy chairman; isn't that

correct?

A. I think chairman designate was the term.

Q. That was a non-executive role.

A. Non-executive role.

Q. When he became Chairman in 1987, it was a non-executive

chairman?

A. It was a non-executive chairman, correct.

Q. Although he had greater duties than a chairman who might  
just attend irregularly to the business of the company. He

had an office; isn't that correct?

A. Correct.

Q. And he attended that office most of the week, would that be

correct?

A. I would have said every day in the week, as a rule.

Q. As a rule.

A. A condition of the term was that he should be available to  
CRH at reasonable times.

Q. Yes. And that is why the person who was being asked to

take up the position as chairman would have had to divest

himself of any executive positions he would have had prior

to that?

A. Correct.

Q. Now, I think you were asked for details of the terms governing the appointment of the late Mr. Traynor as chairman, including the provision of a private office, secretarial facilities and so forth, and also including any terms governing his entitlement to carry on business unconnected with his office as chairman from the premises of CRH. And I think you informed the Tribunal that you are not aware of there being any written document setting out the terms of appointment of the chairman. Your recollection is that he merely assumed office on the same general terms as the outgoing chairman, Michael Dargan, and indeed a similar position applied when you yourself were appointed chairman at least when you retired as chief executive, you fulfilled the dual role for a period, isn't that correct?

A. Correct.

Q. And I think you informed the Tribunal that Mr. Dargan who had been Chairman since 1973 had the use of an office at the registered office of CRH plc and he had a secretary and this, you understand, is very common in large companies?

A. Yes.

Q. That would be the position, isn't that correct?

A. Yes.

Q. Now, I think you informed the Tribunal that Mr. Dargan's secretary was coming close to retirement and your understanding is that Mr. Traynor requested that his

secretary, Ms. Joan Williams, come with him; is that correct?

A. Correct.

Q. To the position.

And this was seen as convenience and Ms. Williams was allocated the office formerly used by Mr. Dargan's secretary, isn't that correct?

A. Correct.

Q. Again, nothing unusual or untoward about that, Mr. Traynor had a long-standing and trusted secretary. The secretary at CRH was due for retirement. It would seem perfectly reasonable that Mr. Traynor might suggest that his secretary would be appointed to the position.

A. That was the position.

Q. Now, I think you've informed the Tribunal that the practice established since Mr. Dargan became chairman in 1973 was that the chairman would be available at all reasonable times to CRH but that he could conduct his personal affairs from the office. This would have included matters relating to his non-executive directorships of other companies and committee work for the state.

A. Correct.

Q. And it's your understanding that Mr. Traynor was the same, it was known that he was a non-executive director of other companies and as such, would have advised correspondence, meetings, etc., and that these non-executive functions could be operated from the office of the chairman.



A. Correct.

Q. There would always have been a distinction between the chairman carrying out executive-type functions for another company and his carrying out non-executive-type functions and you and indeed the board generally would never have understood that the chairman could use his office in CRH to carry out executive functions?

A. Correct.

Q. And although there was nothing in writing, this would have been the understanding that you as chief executive and subsequently as chairman yourself would have had?

A. Correct.

Q. So if I might just briefly pause there and just look at that.

There was nothing in writing about the terms and conditions of the position of chairman; isn't that right?

A. Correct.

Q. But whilst he was a non-executive chairman, his primary function was to be available for CRH, this was a big company after all, isn't that correct?

A. Yes, and that was his primary function.

Q. And, of course, there would have been nothing wrong with the chairman having other directorships, providing they were non-executive as far as CRH was concerned?

A. Correct.

Q. And of course in his role as a non-executive director of

other companies, he'd have various documents relating to other companies, he'd receive directors' packs, or he might have correspondence or the minutes of meetings of other companies?

A. Correct.

Q. And it would seem perfectly reasonable that he should keep those at CRH, CRH's offices, and perhaps conduct routine correspondence from there in respect of those particular positions he had?

A. Yes.

Q. And can I take it that it was well known that Mr. Traynor had other directorships?

A. It was well known, yes.

Q. And he served on state boards and may even have sat on committees which may have advised for all we know?

A. Yes.

Q. Again, nothing unacceptable from CRH's point of view about the chairman fulfilling those functions?

A. Not unacceptable, quite acceptable.

Q. But even allowing for other non-executive directorships, can I take it that it would have been your understanding as chief executive, and probably of the board and other executives of CRH, that that would only take up a relatively small amount of time of the chairman.

A. The other functions, other than CRH functions?

Q. Yes.

A. Yes.

Q. It would be secondary.

A. It would be secondary.

Q. Now, I think you were asked by the Tribunal then of details of all purposes for which the CRH head office premises were used; isn't that correct? I think just to be clear about this, the company was run from Belgard Castle, is that correct?

A. Correct.

Q. And you have said that there seems to be a misunderstanding as highlighted in this question as to where exactly Mr. Traynor had his office. Mr. Traynor's office was always at the registered office of the company and not at the head office.

A. Correct.

Q. The head office of CRH plc was in Belgard Castle since the early 1970's and that is where the chief executive and all the group executives, other than the company's secretary, had their offices?

A. Correct.

Q. "Mr. Traynor's office between 1987 and May 1989 was in Pembroke Street; is that correct?"

A. Correct.

Q. The building of Pembroke has the office of Irish Cement Limited, a subsidiary of CRH plc, and also the registrar's and secretary's offices of CRH plc and it was the registered office of CRH plc?

A. Correct.

Q. In May 1989 Irish Cement Limited moved to Stillorgan and these other functions previously conducted on Pembroke Street moved to 42 Fitzwilliam Square, the chairman's office also moved there at that time accordingly from the early 1970's to the present day, the chairman's office was never in the head office of CRH plc.

A. Correct.

Q. So the day-to-day running of CRH plc took place at Belgard Castle from the 1970's?

A. Correct.

Q. From Mr. Traynor's time as either chairman designate or chairman, he was either in Pembroke Street or 42 Fitzwilliam Square?

A. Yes.

Q. And the functions conducted were the chairman the chairman himself was there and the chairman had a secretary?

A. Yes.

Q. The company's secretary was based there; is that correct?

A. Correct.

Q. And I presume the company's secretary had a secretary.

A. Yes.

Q. The registrar

A. Yes.

Q. was there and I presume had some small staff?

A. Yes.

Q. And that's where the share register was maintained; is that

correct?

A. Yes.

Q. And where did board meetings take place normally?

A. Belgard Castle normally.

Q. So Mr. Traynor would have, and the secretary, would have travelled to Belgard Castle to attend board meetings?

A. Yes.

Q. And I think Ms. Williams gave evidence the other day that there may have been board meetings held at 42 Fitzwilliam Square, perhaps on the day that the company's results were being published or something like that?

A. Yes.

Q. Would that be the sort of thing that might happen?

A. Yes.

Q. Would that be a fairly quick board meeting, would you say?

A. Very quick.

Q. Probably only one matter on the agenda?

A. One matter on the agenda, yes.

Q. And all matters for the board for board meetings other than this board meeting preceding the publication of the results. I take it as the chief executive you would have had to have discussions with the chairman before board meetings.

A. Yes.

Q. In the normal course.

A. Yes.

Q. To brief on the matters.

A. Yes.

Q. And where would those briefings take place normally?

A. More often in 42 Fitzwilliam Square than in Belgard.

Q. Yes, so that before a board meeting you would go to 42

Fitzwilliam Square with

A. Yes.

Q. whatever

A. Might be well before a board meeting, might be a week in advance.

Q. Yes, but the chairman would have to be briefed by the chief executive of what was going to happen at the board meeting?

A. Yes.

Q. And how matters might be handled in due course?

A. Yes.

Q. And did you was there in 42 Fitzwilliam Square did you brief Mr. Traynor in his own office?

A. Generally.

Q. And would you be accompanied by any other executives when you would be briefing the chairman?

A. On if there was a specific issue which an executive director was reporting to me on which was within his domain, it would be times that an executive at my request might accompany me.

Q. Yes, within his area of expertise or management or responsibility?

A. Yes.

Q. I think then the Tribunal then asked you whether any other

officer or personnel of CRH worked from CRH's head offices whether continuously or occasionally and the frequency with which the purpose of other officers and personnel attended the premises, and I think you informed the Tribunal that with the exception of the company's secretary, the registrar and group assistants I take it you carried your own insurance or someone who dealt with the insurance.

A. Yes, there would be group insurances.

Q. No officers or personnel or CRH worked from 42 Fitzwilliam Square, the registered office of the company. All group personnel were located at Belgard Castle or CRH offices in other countries.

A. Correct.

Q. Some board meetings or committee meetings of the board were held at 42 Fitzwilliam Square mainly to convenience the directors attending these meeting, but most meetings took place at Belgard Castle. The chief executive would have had a number of informal meetings with the chairman in the chairman's office and these usually took place in the early morning and on average once every two weeks or thereabout?

A. Yes.

Q. What was the frequency of board meetings generally?

A. Monthly.

Q. Now, I think the Tribunal asked about your knowledge direct or indirect of the members of the board of CRH in relation to the banking management carried out by the late

Mr. Traynor in CRH's head offices. I keep saying head office. I think we should change it to registered office, we're talking about the registered office as opposed to the head office.

A. Yes.

Q. Now, I think the directors, you've informed the Tribunal that the directors of CRH plc had, to the best of your knowledge, no direct or indirect knowledge of any banking financial interest allegedly carried on by Mr. Traynor from the CRH office. It was generally known by all that he was a non-executive director and sometimes chairman of New Ireland Assurance Company and a non-executive director of Aer Lingus and IFI, semi-state companies among others. It was also known that he was a non-executive director of a bank in the Cayman Islands but this was not thought unusual because it was assumed it was a follow-on from him having been managing director in Guinness & Mahon in Dublin. If the allegations regarding Mr. Traynor carrying on a banking business or any illegal activity from CRH's offices were established to be correct, then you and your fellow directors would deplore this as a most serious breach of trust by its former chairman.

A. Yes, we would deplore it.

Q. Now, I think you were then asked about knowledge, direct or indirect of the board of CRH of the activities conducted by the late Mr. Traynor from CRH's registered office in connection with the banking financial business and in



particular in relation to the use of the premises as a postal address for Ansbacher Cayman Limited and Hamilton Ross Limited, the use of the premises for the purpose of meetings between the late Mr. Traynor and clients of Ansbacher/Hamilton Ross, the use of the premises for meetings between the late Mr. John Furze and clients of Ansbacher/Hamilton Ross, the use of the office for the keeping of confidential files both in hard copy and on computer, the use of the premises by persons who were not employees of CRH in connection with the late Mr. Traynor's private business.

And I think you've informed the Tribunal that the directors of CRH plc had, to the best of your knowledge, no direct or indirect knowledge that Mr. Traynor was conducting the alleged activities described in questions from their registered office. The company's secretary, whose office was in the same building as Mr. Traynor but on a different floor, was aware that some persons who were not employees of CRH visited him there but did not pass any heed to this and assumed that what Mr. Traynor was doing there, he was entitled to and never considered it necessary or appropriate to query the matter. And that you still do not know the extent to which post relating to the alleged activities arrived at CRH registered office, but understand that it was not so significant that it would attract attention and require reference to the board.

I think you were then asked whether the activities of the late Mr. Traynor were ever raised with him at a board meeting of the board of directors and if so, the matters which were raised and the responses received, isn't that correct?

A. Correct.

Q. And I think you've informed the Tribunal that the activities of Mr. Traynor were never raised with him at a meeting of the board of directors, that you have checked the minute book of the company and there is no reference at any time to such a matter being raised.

Now, I think in the next portion of your response it relates to something which transpired during the private work of the Tribunal and I don't wish to raise it at this stage, if you don't mind, Mr. Barry. We may have to return to it but I won't deal with it now.

And I think you say that the only occasion on which there was a discussion of the board regarding Mr. Traynor's chairmanship was when his position came up for review in 1991 after he had served the initial four years of his first five-year term. The chairman absented himself for this discussion as would be normal and there was no objection at that time to his continuing as chairman.

A. Correct.

Q. Fairly normal and routine.

A. Yes.

Q. His position came up for renewal, he left the meeting, the other directors discussed the matter and he was reappointed as chairman.

A. Yes.

Q. Now, I think the next matter which was raised was whether the use of the premises for the late Mr. Traynor's private banking activities were ever raised with the late Mr. Traynor informally by any officer of CRH and if so, the matters raised and the responses received. And you've informed the Tribunal that the use of the premises by Mr. Traynor was never raised at a board meeting and to the best of your knowledge, was never raised informally with him by any officer at CRH.

A. Correct.

Q. Now, I think you were then asked the arrangements made for the removal of the late Mr. Traynor's files and computer system following his death, isn't that correct?

A. Correct.

Q. And I think you've informed the Tribunal that Mr. Traynor died suddenly on the 11th of May 1994. Shortly after his death you were approached by his son and executor, Mr. Tony Traynor, and was asked for permission to remove Mr. Traynor's private papers and effects from the CRH office, is that correct?

A. Correct.

Q. You readily consented to this and left it to Mr. Traynor junior and Mr. Traynor's secretary to arrange for the

removal of his personal or private papers and effects.

A. Correct.

Q. I think you had been appointed chairman shortly after Mr. Traynor's death, but as you were to remain as chief executive until October 1994, you did not need an office in Fitzwilliam Square as you still had your office in Belgard Castle.

A. Correct.

Q. Accordingly, you indicated that there would be no rush and that the effects could be removed as it suited them - that's Mr. Traynor junior.

A. Yes.

Q. And I think you've informed the Tribunal that you were informed by his secretary, that's Ms. Williams, is it?

A. Yes.

Q. That Mr. Traynor's CRH papers were kept in a separate filing cabinet from his private papers and that his CRH papers would not be discharged in the process.

A. Yes.

Q. You had no reason to be concerned about the papers as you believed that Mr. Traynor's secretary would know what was to stay and what was to go?

A. Yes.

Q. Now, I think you were then asked the knowledge, direct or indirect, of the officers of CRH of the continued use of the company's head office in connection with the banking financial activities of the late Mr. Traynor following his

death, and you've informed the Tribunal that the officers of CRH had no knowledge, direct or indirect, of the continued use of the CRH registered office after Mr. Traynor's death in connection with any banking financial activities until evidence was elicited in recent tribunals, is that correct?

A. Correct.

Q. Now, I think, Mr. Barry, you're aware now from information which has come to light during the course of these tribunals, that the offices of the registered offices of CRH at 42 Fitzwilliam Square were being used for the purpose of carrying on financial business on behalf of clients of Mr. Traynor, isn't that correct?

A. That appears to be the case.

Q. And can I take it that if that had been known at the time, it would have been considered outside what was permissible for the chairman of CRH.

A. Yes, it would.

Q. And the fact that Mr. Traynor was using notepaper on behalf of a Cayman bank and directing that replies be made to 42 Fitzwilliam Square, is that something that CRH plc would have taken action about if they had known?

A. Yes. We would not have been happy about it.

Q. And the fact that the premises were being used to store information about these financial activities as well, is that something that would have been considered outside what was permissible for the chairman?

A. Yes.

Q. At the registered offices?

A. Yes.

Q. And I think you will be aware from evidence which was given at this Tribunal by Mr. Denis Foley TD, that he actually attended at 42 Fitzwilliam Square and received cash, a large sum of cash from Mr. Traynor in the course of Mr. Traynor looking after financial matters for Mr. Foley.

A. I'm aware of that.

Q. You're aware of that, yes. And can I take it that that is something that would have been considered outside the scope of what was permissible for the chairman of CRH plc?

A. Yes.

Q. Now, Ms. Williams has given evidence, as has you know Ms. Williams?

A. Yes.

Q. She remained on as your secretary.

A. Yes, until quite recently.

Q. And I think she has given evidence and Mr. Collery has given evidence of conducting the business of what purported to be offshore banking from the offices of 42 Fitzwilliam Square to the extent that Mr. Collery attended at the office outside normal office hours and made entries on the computer maintained in Mr. Traynor's office. I think you're aware of that?

A. I'm aware of that, yes.

Q. When did you first become aware that, that that type of

activity was going on?

A. Only within the last twelve months, two years, whatever it is.

Q. Since the McCracken Tribunal?

A. Yes.

Q. You hadn't been informed of Mr. Collery's activities prior to that by Ms. Williams, had you?

A. No.

Q. And from the evidence of Ms. Williams, it would appear that Mr. Collery had his own key.

A. It would appear, yes.

Q. To go into 42 Fitzwilliam Square.

A. Yes.

Q. And had the code for the alarm as well.

A. Yes.

Q. Can I take it that if the executors and the other board members of CRH had been informed of that type of activity, a stop would have been put to it immediately?

A. Yes.

Q. Now, on the occasions when you attended at 42 Fitzwilliam Square to brief the chairman, it was in his office, isn't that correct?

A. Yes.

Q. Did anything seem out of the ordinary to you about the office?

A. Absolutely not.

Q. I take it he had a desk and some chairs?

A. Yes.

Q. Filing cabinets?

A. Yes.

Q. A computer?

A. I don't think there were any filing cabinets kept in that office. They were kept in the adjacent secretary's office.

Q. I see. Was there a computer in the office there?

A. I never saw a computer up and working. I seem to remember there was a case on one shelf in the corner which looked as if it might have been a computer, but I never saw it plugged in or a screen up or it working.

Q. Yes.

A. I wouldn't even have been certain that it was a computer.

Q. Yes. Well, was there anything about the place that seemed out of the ordinary to you from any other office?

A. No.

Q. Now, can I take it that the only authorised stationery which should have been in 42 Fitzwilliam Square was CRH plc stationery or perhaps subsidiary stationery or stationery to do with the registrar or the insurance side of CRH's business?

A. Yes, but if I could just say that, for example, in my own case as chairman, I would have my own personal stationery.

Q. Yes, your own personal stationery?

A. But it would generally be just your personal stationery and the stationery of CRH.



Q. CRH, yes. There may be, I suppose, there may be, I don't know, stationery relating to another company that somebody might be a non-executive director of?

A. Yes, it's possible.

Q. It's possible. But stationery on behalf of an offshore bank, how might that have been viewed by the board if it was known that it was present on the premises?

A. If it was known it was present on the premises and being used, if you like, in an executive function for the bank, that would not have been agreed with.

Q. Yes. I think it was known that Mr. Traynor had a non-executive role in respect of an offshore bank.

A. Yes.

Q. He was chairman.

A. Yes.

Q. And one might understand that one might have stationery as a chairman for communicating in general terms with people, isn't that correct?

A. That's possible.

Q. It's possible. But there can be little doubt and I'm asking you now as a senior and experienced businessman can there be any doubt from what you have learnt since the tribunals started, that the type of function being conducted, or the exercise being conducted by Mr. Traynor from 42 Fitzwilliam Square, could only be designated as an executive-type function, that is in relation to financial matters?

A. I would agree.

Q. Now, I think you, after your appointment as chairman, remained on at Belgard Castle, isn't that correct?

A. Correct.

Q. Until at least October or thereabouts of 1994?

A. Yes.

Q. And again perfectly understandable that Mr. Traynor's son and his secretary might have contacted you about removing personal papers?

A. Yes.

Q. Nothing unusual or unreasonable about that. And you would have expected that Ms. Williams, who gave evidence here and had all the appearance of being a very responsible and efficient-type secretary, would be able to distinguish between personal and CRH matters?

A. Yes.

Q. You would expect. The premises at 42 Fitzwilliam Square, and I know you were not in occupation of them for a number of months

A. Yes.

Q. continued to be used to an extent

A. Oh, yes.

Q. for the conducting of what purported to be offshore banking.

A. Oh, that I cannot say one way or the other. But they continued to be used by CRH.

Q. Oh, yes. But they continued to be used as well by

Mr. Collery and to a lesser extent, Ms. Williams in more a secretarial or assistant-type capacity?

A. Well I would have no knowledge of that personally.

Q. Well, Mr. Collery seems to have maintained his key and ability to get into the premises in that period. Does anyone know anything about that in CRH?

A. Well, I personally don't know and I was not aware until quite recently that Mr. Collery had a key. In fact, I understood that at the time Mr. Traynor's personal effects, non-CRH effects were being taken out, I was aware that Mr. Collery had, if you like, helped or assisted in that.

Q. That seems to have been not immediately after Mr. Traynor's death, but sometime later , according to Ms. Williams anyway.

A. I'm not absolutely clear. I'm very clear that Mr. Traynor would have approached me about removal of the effects quite shortly after his father's death. I would have said within a few weeks.

Q. Yes.

A. But the actual process of it happening, I can't say precisely when it happened.

Q. You had no need for the office for a number of months anyway.

A. Yes.

Q. And even after the removal of the effects, that is the if I use the term, the Ansbacher effects, from CRH's registered offices, some business, even during your period

of occupancy of 42 Fitzwilliam Square, seems to have been conducted on behalf of a company called Hamilton Ross from the premises, even of a limited nature. We had I don't know if we can show it now, that in December of 1994, a letter is sent on Hamilton Ross notepaper by Ms. Williams to Irish Intercontinental Bank from 42 Fitzwilliam Square. I'll just put it up if I can just show you the notepaper first giving a direction for payment of money out of these offshore acts to BEL Secretarial Services and it appears that the purpose of these particular payments was to meet the expenses of Mr. Haughey. Now, that letter was dated the 13th of December 1994. You had in fact moved into Fitzwilliam Square at that time, hadn't you?

A. I had.

Q. Ms. Williams was able to tell us that some notepaper was still maintained at Fitzwilliam Square. Did you know that?

A. No.

Q. If you had known that this was going on while you were in the office or while it was on your watch in Fitzwilliam Square even, what would your attitude have been?

A. I would have been curious, to say the least, but I didn't know.

Q. What steps would have been taken if you became aware that this type of business was being conducted from the registered offices of perhaps the largest public company in the country?

A. Well, it clearly would have been unsatisfactory and not acceptable.

Q. But as I say, in the first instance you would have demanded that all activity ceased at least?

A. Yes.

Q. And then you would perhaps review the position

A. Yes, to see precisely what was the quantum of it.

Q. Yes. And it continued on it will come up in due course in evidence, we will be hearing in relation to business being conducted with the Bank of Ireland, but in general, in 1995 I'll just show you another example, if I may.

Now, this isn't on specific Hamilton Ross or Ansbacher-type notepaper, it's just 42 Fitzwilliam Square, perhaps it's the type of notepaper that could be generated in a word processor I suppose. And it relates to it's addressed to the Bank of Ireland in Fitzwilliam Square and it's re: the Poinciana Fund, US deposits, and it's giving a direction again and it's dated the 9th of January 1995. I'm not so much interested in the contents as the fact that it's coming from 42 Fitzwilliam Square.

Can I take it that you knew nothing about this?

A. No.

Q. And again it's a matter that would be taken very seriously by you and the board, I presume

A. Yes.

Q. if it was known that this type of activity was going on

from the registered office?

A. Yes.

Q. Is that by any chance CRH notepaper?

A. It's not formal CRH notepaper, no. I don't see CRH anywhere on it.

Q. Well, I take

A. It's not CRH style notepaper.

Q. Is it not, no?

A. No.

Q. Well obviously from the letter, it would appear that communications regarding the funds held with Bank of Ireland had previously been addressed to CRH or to 42 Fitzwilliam Square, I shouldn't say CRH, because it's being redirected now, isn't that correct?

A. That appears to be, yes.

Q. There's a direction to redirect.

A. Yes.

Q. Now in this Tribunal, apart from inquiring into and establishing facts, will have a function and a role in respect of recommendations to be made at the end, and perhaps it's something that you might be of assistance to, not right now, Mr. Barry, but in due course, as to the view of the board of a substantial public company as to what safeguards would be necessary to ensure that this type of activity could not occur again.

A. Well, we'd be very pleased to cooperate in that respect fully.

MR. COUGHLAN: Thank you.

CHAIRMAN: Do you have any questions?

MR. GLACKIN: Mr. Chairman, I just want to clarify or have Mr. Barry clarify one matter.

THE WITNESS WAS EXAMINED AS FOLLOWS BY MR. GLACKIN:

Q. MR. GLACKIN: Mr. Barry, in the course of your answering, you referred to the one person, Mr. Traynor, in two separate ways. On one occasion you referred to him as deputy chairman and on another occasion as chairman designate. Now, would you like to just clarify what you understood the position was between 1986 and 1987 when he became chairman? Up to that I believe he was deputy chairman. You may have misused the term.

A. As I understood it, he was appointed deputy chairman and if I used the word designate, it was intended to apply he would certainly succeed in the chairmanship in the event of anything unusual or improper happening between that time. He was deputy or designate until that time.

Q. It wasn't a formal title that he had, is that correct?

A. No.

CHAIRMAN: Just in conclusion, Mr. Barry, can I take it that when Mr. Traynor was first invited to join the board, and in particular when he took the chair of the company, it would have been material that his colleagues in management

would have known the range and nature of his other interests?

A. Yes.

CHAIRMAN: Obviously the possibility of his acting for a competitor, even in a non-executive field, would have been unacceptable, so you would have had to know the various companies or other interests involved?

A. Correct, Mr. Chairman.

CHAIRMAN: Very good. Mr. Barry, I think, as Mr. Coughlan has mentioned to you, there are a couple of contingencies in which it may be necessary to seek your assistance again. Thank you for attending today.

A. Thank you, chairman.

THE WITNESS THEN WITHDREW.

MS. ANGELA MALONE, HAVING BEEN SWORN, WAS EXAMINED AS FOLLOWS BY MR. COUGHLAN:

Q. MR. COUGHLAN: Now, Ms. Malone, I think you prepared a Memorandum for the assistance of the Tribunal, and I take it you have that with you. And I think you informed the Tribunal that you were appointed assistant secretary of CRH plc in October 1990 and you were appointed company secretary in May 1995; is that correct?

A. That's correct.

Q. I think at all relevant times your office was at 42 Fitzwilliam Square, is that correct



When you were appointed assistant secretary, was the post of company secretary vacant or was there a company secretary?

A. There was a company secretary.

Q. I think the company secretary, up to May 1995, was Mr. Joe Moore who retired at that time, is that correct?

A. That's correct.

Q. I think you informed the Tribunal that Mr. Des Traynor was chairman of the company when you were assistant secretary and that you were aware that he was a non-executive director of a number of other companies, and that his role in the CRH was that of a non-executive chairman, is that correct?

A. That's correct.

Q. And I think you've informed the Tribunal that you did not consider it unusual that Mr. Traynor, as chairman, had the secretary and office on 42 Fitzwilliam Square as you understood, that was fairly common in large organisations?

A. Yes.

Q. And you also understood that Mr. Traynor would conduct whatever business arose relating to his non-executive positions from his chairman's office?

A. Yes, that's correct.

Q. I think in any large company the chairman would have an office and he would have a secretary and there would be nothing wrong with him conducting other bits and bobs of

his business life provided they didn't conflict with the company and were out of a non-executive nature, is that correct?

A. That's right.

Q. Now, I think you've informed the Tribunal that your only dealings with the chairman, Mr. Traynor, were in relation to CRH business, is that correct?

A. That's correct.

Q. You would not have had conversations with him on other issues and would not have had occasion to inquire into any other business he was conducting?

A. That's right.

Q. Can I take it that your dealings would have been in relation to what the the minutes of the

A. Essentially most of Mr. Traynor's dealings would have been with Joe Moore who was secretary at the time. In Joe's absence I would have dealt it would have been more normal for him to deal with Joe.

Q. What would the dealings be?

A. In relation to the board meetings or information to be circulated to the board, those type of issues.

Q. Yes. Now, I think you were aware from an acquaintance of yours who was company secretary in another company where Mr. Traynor was chairman, that he held meetings with your acquaintance related to that company in his office on 42 Fitzwilliam Square. "I was also aware that various people called to that office."

A. That's correct.

Q. Nothing unusual about that?

A. Nothing.

Q. That many of the people calling to the building were, for example, CRH shareholders who wanted to talk to the share registrars, therefore it was not unusual to meet a stranger on the stairs in the building and if one did, no particular heed was paid to it.

A. That's right.

Q. The registrar the register of the company was held there and the registrar was based there?

A. That's right.

Q. And shareholders would come and go seeking information in relation to the share register?

A. Yes.

Q. Now, was the front door kept locked or could it be pushed in?

A. It was kept locked and controlled by an intercom system which was answerable in a number of other places in the building. So essentially whoever answered it would speak to the person that was, you know, required to answer and, you know, who was required who would then go down and deal with them. So more often than not it was for the registrar's

Q. Yes, of course. I think you've informed the Tribunal that you were aware that people called to see the chairman, but again did not pay any particular heed to that.

A. That's right.

Q. Because of the layout of the building, one would not necessarily be aware of who was in the building at any particular time, and your office was on a higher floor than that of the chairman, so unless you met the person on the stairs, you were unlikely to see or meet them at all?

A. That's right. The offices are, in fact, a converted house so you're either in an office or room or you're on the stairs or in the hallway. There isn't anywhere else. There isn't a communal area. It isn't a general office building.

Q. An old Georgian house with a hallway and various rooms on the stairway.

A. Yes.

Q. Now, I think you've informed the Tribunal that you would have had very little contact with Ms. Joan Williams until October or November of 1994 when she commenced to act as your secretary also and as you have stated before, you had very little direct contact with the chairman, is that correct?

A. That's right.

Q. You were not aware of any specific letters being typed by Ms. Williams, even after Mr. Traynor died, but understand that she was helping to tidy up his personal papers and effects.

A. That's correct.

Q. I think Ms. Williams herself has told us that after

Mr. Traynor's death she became secretary secretary to the secretary as well as to the chairman, is that correct?

A. That's correct.

Q. Now, was Ms. Williams in the room adjacent to Mr. Traynor?

A. Yes.

Q. Was that on the hall level?

A. No. It was on the first floor level. There was a connecting room.

Q. Connecting room.

Now, turning to deal with the question of Mr. Padraig Collery and his access to the building, you informed the Tribunal that you do recollect being told that if you were working late you might meet Padraig who might introduce some work for the chairman?

A. That's correct.

Q. You did not know the surname and you understood that he had a key and had access to the building as indeed did the cleaner. But knowing it was authorised by the chairman, you did not pay any heed to it?

A. That's correct.

Q. You do not recollect when in the period 1990 to 1994 you first became aware of this?

A. No.

Q. Can I take it that there would be occasions when you yourself would have to work late?

A. Yes.

Q. I suppose coming up to year's end or the preparation of the

matters for the general meeting of the company, would that be the usual time?

A. Yes.

Q. And somebody told you that there would be a man called Padraig in the premises late, is that correct?

A. I think it was said in the context that if I saw somebody I didn't know, just to be aware that Padraig had a key to the building and that he came in he would be there after hours rather than during working hours.

Q. Who would have told you that, do you think?

A. I honestly don't remember. I just remember being made aware of it. It may have been Joe, my predecessor, it may have been somebody else working in the building. I just don't know, I don't remember.

Q. That's why I'm really just trying to remember, ascertain the person you would have been most in contact would be your predecessor, Mr. Moore. You had no dealings with the chairman other than in the absence of

A. That's correct.

Q. You had very little dealings with the chairman's secretary, Ms. Williams?

A. That's correct, at that time.

Q. At that time until she became your secretary after 1994, so can I take it that it is improbable that it was the chairman or his secretary who told that to you?

A. I think it's improbable, yes.

Q. Improbable?

A. Yes.

Q. And it's more probable that it was somebody on the CRH side, although I'm not discounting the chairman or Ms. Williams?

A. Yes.

Q. It was your predecessor or somebody else on the secretarial side, would that be right?

A. I don't honestly know. I just remember becoming aware of it.

Q. How many people roughly worked in Fitzwilliam Square at that time? Roughly?

A. About a dozen.

Q. About a dozen. And the people who might have known that there was somebody coming in after hours might have been was there a porter or a cleaner?

A. Yes. Well there's a person who looks after the facility in 42, yes. And that might it might well have been I suspect it was part of the familiarisation with the building.

Q. Did you have your own key? Did all the staff have their own key?

A. All the staff would have had keys there are two locks on the door essentially. All the staff would have keys to the lock because you needed to get access to the building during the day. But only people who would need to have it, people who would have been there late in the evening or outside normal hours would have had keys to the dead lock.

Q. And was there an alarm system?

A. Yes.

Q. That you punched in a code?

A. Everybody had their own code, yes. It's still the same system. Everybody has their own code.

Q. An alarm system into each area?

A. No, just into the building generally.

Q. And everyone would have that, would they?

A. Again people who need to have access to the building outside normal office hours.

Q. Who would give them that code?

A. Again, the person who looks after the facility.

Q. Now, Ms. Malone, I think the cleaners had or the cleaner had a key to the office?

A. That's right.

Q. Perfectly understandable. Mr. Collery wasn't in that category as far as you were concerned, he was somebody doing something for the chairman.

A. That's correct.

Q. Doing work doing work for the chairman.

A. Yes. Doing something, I don't know what I didn't think what, simply that the chairman had asked could he have access to the building.

Q. Did that strike yourself or the then secretary as being unusual?

A. Well it certainly didn't strike me as being unusual, and I would suspect it didn't strike Joe as being unusual either,



no.

Q. Well, could I ask you, I think you have told us about an acquaintance of yours who was secretary of another company of which Mr. Traynor was chairman and they discussed that company's affairs at 42 Fitzwilliam Square?

A. Yes.

Q. Was there any other instance of somebody coming to do work for the chairman which didn't appear to be CRH work?

A. Not that I'm aware of.

Q. And I think you've informed the Tribunal that there was no additional concerns about security because Mr. Collery might have been in the building because there had been break-ins to the building, you would have been conscious to put away overnight anything that was confidential and not have it found out on the street, and you believed that that was the general consensus regarding security, but nothing specific relating to Mr. Collery's presence?

A. That's right.

Q. In other words, you put away safely any confidential documents relating to CRH that you had, so that in the event there might have been a break-in, access wouldn't have been readily obtained?

A. That's correct.

Q. That Mr. Collery wasn't a worry from a security point of view as far as you were concerned?

A. No. The fact that the chairman trusted him to be there was enough for me.

Q. I think you say that I suppose that on reflection it was a question of trust. If the chairman trusted him to allow him access, that was sufficient as far as you were concerned, but it was not something that occurred to you as unusual or requiring explanation, or the raising of a query with a more senior person in the company.

A. That's correct.

Q. I think you've informed the Tribunal, it has to be understood that Mr. Traynor engendered a lot of trust, he was a person of very high standing in the business community and it would not have occurred to you or you were sure to anybody else in the building to question his authority or judgment.

A. That's correct.

Q. Now, I think you've informed the Tribunal that you understand that Mr. Collery operated the computer in Mr. Traynor's room but you never saw him doing it in fact?

A. That's right.

Q. You don't remember how you formed that understanding and have to presume that somebody may have mentioned it to you. However, again, you did not perceive anything suspicious in that, if the chairman required that to be done, it was his affair and not an affair that raised questions. The computer was Mr. Traynor's personal computer and not linked to any CRH computer, is that correct?

A. That's correct.

Q. You had no suspicions and never heard any reference to suspicions that anything illegal or untoward was happening.

A. That's correct.

Q. Leaving aside the question of legality or illegality, did it occur to you that something unusual was occurring to the extent

A. No.

Q. There was no doubt you would have been aware that Mr. Collery was not an employee of CRH, and he was the only non-employee of CRH who had a key to the premises as far as you were aware?

A. Apart from the people who did the cleaning.

Q. If we could take them broadly within the sphere of being CRH employees, whatever the arrangement was. But this was the only person who had no connection with CRH?

A. I think it's correct.

Q. Could you sit a little bit forward, perhaps, just so that you speak into the microphone. Thank you.

Now, again, of course, you were at the time the assistant secretary, isn't that correct?

A. That's right.

Q. And I suppose from your point of view, the chairman seemed to be happy about this, and also the secretary seemed to be happy about it?

A. Yes.

Q. Could I ask you this, if, when you became company secretary, it came to your attention that the chairman of the company had given , or permitted somebody to have a key to the premises and permitted that person to carry out work on the premises, would you have asked the chairman about it?

A. Probably not. In the circumstances at the time, if I go back to 1995, no. My answer today might be different.

Q. I appreciate that. But as company secretary, would you be at least sufficiently inquisitive to ascertain whether there might have been something which may have been in conflict with the interests of the company?

A. No, I would have assumed that the chairman was not doing anything which was in conflict with the company.

Q. And that is because of the position the chairman occupied in the business community, is that correct?

A. Exactly.

Q. Would you have viewed it, as Ms. Williams herself viewed it, that Mr. Traynor was chairman of CRH, he was a director of many other companies including semi-state companies, isn't that correct?

A. Yes, that's correct.

Q. And as Ms. Williams saw it, he was a close personal friend of the Taoiseach of the day as well, isn't that right?

A. Yes, I understand that's the case, yes.

Q. So in those circumstances, one might legitimately and justifiably believe that nothing untoward was going on, is

that fair to say?

A. Anything that was being done was Mr. Traynor's personal business.

Q. Yes, I know I understand

A. Personal to him.

Q. Personal to him in the first instance.

A. Yes.

Q. But if you thought that there was a blackguard there doing something improper, it might be his personal business but that would be a matter that would cause concern to the secretary of the company.

A. Indeed.

Q. And perhaps raise it with some of the board members.

A. But that wasn't the case.

Q. It was because of Mr. Traynor's position in the community, isn't that correct?

A. That's correct.

MR. COUGHLAN: Thank you.

MR. QUINN: No questions.

CHAIRMAN: Thank you very much for your assistance.

THE WITNESS THEN WITHDREW.

MR. COUGHLAN: I understand, Sir, that we've gone a little bit faster than we intended this morning, that the next witness isn't available until after lunch.

CHAIRMAN: Because of that unavailability of witnesses,  
we'll resume at quarter to two.

THE TRIBUNAL THEN ADJOURNED FOR LUNCH.

THE TRIBUNAL RESUMED AS FOLLOWS AT 1:45PM:

MR. COUGHLAN: Mr. Brennan.

CHAIRMAN: I think, Mr. Brennan, am I right you were sworn  
in on an earlier occasion?

A. No, Mr. Chairman.

MR. ANDREW BRENNAN, HAVING BEEN SWORN, WAS EXAMINED AS  
FOLLOWS BY MR. COUGHLAN:

Q. MR. COUGHLAN: Mr. Brennan, I think you prepared various  
memoranda for the assistance of the Tribunal, memoranda of  
evidence, isn't that correct?

A. That's correct, yes.

Q. And do you have those with you?

A. I do indeed.

Q. I intend going through these and perhaps asking one or two  
questions just to clarify matters as we go along, if that's  
all right.

I think in your first memorandum you state that you are the  
Senior Manager with Bank of Ireland private banking, 35  
Fitzwilliam Square, Dublin 2, is that correct?

A. That's correct.

Q. And that you can confirm, of your own knowledge, of bank

accounts opened and operated with Bank of Ireland private banking by Mr. J. D. Traynor between the periods March 1992 to the date of his death, which was in, I think, May of 1994, or thereabouts, and thereafter, by Mr. John Furze and Ms. Joan Williams, is that correct?

A. That's correct, yes.

Q. I think you can confirm that your bank had no dealings with Mr. Padraig Collery, is that correct?

A. No, his name did appear on some correspondence towards the latter stages of one particular account, but we had no dealings nor did I ever meet him.

Q. You had no meetings, no personal dealings, and he didn't come to the bank as far as you know?

A. That's right. No personal details.

Q. Now, I think the relevant accounts, which were with Bank of Ireland private banking, were Ansbacher Limited, is that correct?

A. That's correct, yes.

Q. Poinciana Fund Limited, is that correct?

A. Correct.

Q. Tara Securities Limited, Penta P-E-N-T-A Investments Limited and Worldwide Management & Consultancy Services Limited, is that correct?

A. That's correct, yes.

Q. The account-opening documentation and non-residency declarations were provided by Mr. Traynor, is that correct?

A. They were indeed, yes.

Q. And with regard to Tara Securities Limited, Penta Investments Limited, and Worldwide Management & Consultancy Services Limited, the bank has unsuccessfully attempted to obtain consent to supply information to the Tribunal. I think you went through that process yourself, is that correct?

A. That's my understanding, yes.

Q. Now, I think the documents have been produced and you're in a position to comment on certain documents, is that right?

A. That is so, yes.

Q. Now, turning, first of all, if I might, to the first in time, the account of Ansbacher Limited, if that's all right with you.

A. Yes.

Q. I think by way of background you have informed the Tribunal that Mr. Traynor telephoned in late March 1992 requesting that your bank arrange a loan transaction on behalf of an existing client, is that correct?

A. That is correct, yes.

Q. And as security for the proposed transaction, Ansbacher Limited would place an amount on deposit with Bank of Ireland International Banking Division which would support a guarantee from Ansbacher Limited in favour of the client's loan facility, is that correct?

A. That is correct.

Q. I think it's a type of facility we have heard discussed here before at the Tribunal, an existing client of the bank



wanted a loan for whatever reason. Mr. Traynor was offering a guarantee from Ansbacher Limited backed by a cash deposit, in effect, the guarantee itself being backed by a cash deposit, is that your

A. That is correct.

Q. Now, I think Ansbacher Limited account was opened with Bank of Ireland International Banking Division on the 31st March 1992 with a lodgment of €210,000 sterling transferred from Irish Intercontinental Bank by order of Ansbacher Limited, is that correct?

A. That's correct.

Q. The account-opening documents and non-residency form F were provided by Mr. Traynor, is that correct?

A. Correct, yes.

Q. And no transactions occurred other than opening lodgment and the addition of interest, is that correct?

A. That is correct, yes.

Q. Now, I think on the 12th November, 1993, Mr. Traynor suggested that a Newco was substituted in lieu of Ansbacher Limited as support for letter of guarantee for the client in question. Is that correct?

A. That is correct, yes.

Q. And I think this is first of all, Mr. Traynor is it's a letter to Mr. Traynor dated 12th November 1993 and it's "re" the name is blanked out, as you can see

"/Ansbacher."

And it's: "Dear Des

I refer to our recent telephone conversation re proposal to substitute 'Newco' in lieu of the present arrangement with Ansbacher Limited Cayman as support for blank.

To facilitate, I shall require:

Memorandum and articles of association together with certified copy Certificate of Incorporation

Account-opening mandate

A certificate list of directors together with specimen signatures

Confirmation of registered office

Non-residency declaration

On receipt of the above account-opening documentation, I will arrange for preparation of draft form of guarantee to replace that presently held. I look forward to hearing from you shortly.

Kind regards, yours sincerely." And that's you on behalf of Private Banking.

The normal sort of documentation, you would expect a list of the directors, perhaps a resolution of the board or sight of the minute at least, or a minute, non-residency declarations and matters of that nature, isn't that

correct?

A. That's correct.

Q. I think on the 7th February 1994, Mr. Traynor provided an account-opening documentation for Newco requesting that balance of deposit account in the name of Ansbacher Limited plus interest be transferred to the name of Newco, isn't that correct?

A. That's correct, yes.

Q. And there is Mr. Traynor from 42 Fitzwilliam Square writing to you: "Dear Andy, with reference to yours of 12th November last, I enclose herewith the memorandum and articles of association together with certificate of incorporation. The account-opening mandate, list of directors and officers with specimen signatures, and confirmation of registered office and the non-residency declaration.

"If there is anything else required, please let me know."

So he was sending you back what was necessary for the purpose of replacing Ansbacher Limited with Newco on the guarantee.

A. That's correct.

Q. Now, I think on the 15th February 1994, revised guarantee for the client and lien for execution by Newco was received by Mr. Traynor together with instructions that a completion of guarantee by Newco funds in the name of Ansbacher Limited would be transferred to the newly opened account,

Newco, is that correct?

A. That's correct, yes.

Q. I think this is what you received sorry, you are writing to him, first of all, on the 15th November.

"Thank you for your letter of the 7th instant with enclosures as detailed.

I enclose draft form of guarantee incorporating a lien together with supporting resolution for execution under seal by blank.

Upon completion of guarantee by blank, funds presently on deposit in the name of Ansbacher Limited will be transferred to newly opened account blank.

I trust that these arrangements meet with your requirements."

And you sign that particular letter, isn't that correct?

I think on the 17th February 1994 there is a letter from Mr. Traynor authorising transfer of funds in the name of Ansbacher Limited to the new account, Newco, and Mr. Traynor also forwarded certificate of change of name from Ansbacher Limited to Cayman International Bank Trust Company Limited. That was the new name for Ansbacher I think, isn't that correct?

A. Yes, it was.

Q. Also enclosed a letter from CIBTC in connection with the

proposed transfer of funds into the name of Newco. And it reads: "Dear Andy, thank you for yours of the 15th of February.

It has dawned on me that we mustn't have let you have a copy of the certificate of change of name from Ansbacher Limited to Cayman International Bank & Trust Company Limited. I have pleasure in enclosing a copy for your records and I am also enclosing a copy letter on CIBTC letterheading in connection with the transfer of the funds into the name of Palace.

You will note it is different from my last letter in it is proposing that we leave the deposit until it matures on the 21st March" it is really just dealing with matters but informing you of the name of the company or of the change in Ansbacher's status.

A. Yes.

Q. I think on the 28th February 1994 there was a memorandum to the Bank of Ireland International Banking Division enclosing notification of change of name of Ansbacher Limited to Cayman International Banking Trust, isn't that correct?

And then on the 31st March 1994, there is a letter to Mr. Traynor confirming that deposit account in the name of Ansbacher Limited had been closed and cancelled and sterling deposit £239,346.99 having opened and placed on deposit in the name of Newco fixed to the 21st June 1994,

is that correct?

A. That's correct, yes.

Q. And I think the bank contacted the new entity, Newco, which refused consent to disclose. This entity was not named in our Discovery documents, is that correct?

A. Yes.

Q. Could I just ask you a question about that. Who did you contact?

A. Our group legal department contacted the registered office, I understand, and the authorised signatories and contacted Cayman, that's my understanding. It was handled by our group legal department.

Q. And I'd just like to inquire a little into this, if I may, Mr. Brennan. You had a huge number of signatories?

A. Yes, a certain list of signatories for that particular account were two panels, at least two panels, but the officers were also named on the

Q. And who do you understand the group legal department contacted in respect of this?

A. I can't say. I didn't see the actual correspondence, but I am assured that every effort was made to contact the principals.

Q. Well, to your knowledge. Newco is what?

A. A follow-on of what was an account in the name of Ansbacher.

Q. But what is it? Is it a Cayman company?

A. Yes.

Q. To the best of your knowledge?

A. To the best of my knowledge, it was a Cayman company.

Q. To the best of your recollection, its registered offices are in Cayman?

A. To the best of my knowledge.

Q. To the best of your knowledge, the directors were Cayman directors, to the best of your knowledge?

A. Yes.

Q. And to the best of your knowledge, again to the best of your knowledge, the bank legal department made contact with these people, is that correct?

A. That is correct.

Q. And these people refused any consent to make disclosures to the Tribunal, to the best of your knowledge?

A. That's my understanding, yes.

Q. Now, do I take it that a this contact for the purpose of opening this deposit account in the name of Ansbacher in the first instance, which Mr. Traynor did, was for the purpose of backing a guarantee which Ansbacher were providing to Bank of Ireland in respect of a loan Bank of Ireland were making to a client, is that correct?

A. That's how it turned out. The initial contact from Mr. Traynor, Mr. Traynor phoned me to introduce himself and state that he was acting on behalf of a client who was also a client of mine in private banking, an existing client who was certainly of undoubted character and financial standing, that he wished to arrange a facility on behalf of

this particular client and that he would put arrangements in place with regard to security. This was required in somewhat of a hurry and he offered a guarantee, a cash-back guarantee, which he offered to put in place.

Q. Which, of course, you were quite happy with obviously?

A. It made it quite easy.

Q. If you were to get a cash-back guarantee in respect of every loan that was made, life would probably be very easy, but the client was a client of yours

A. He was.

Q. And of Mr. Traynor's?

A. Yes.

Q. And an Irish resident, I take it?

A. Yes.

Q. Now, was this a new loan?

A. It was a new sorry, that particular loan was a new loan, but the client had other

Q. The client would conduct his own business but I am only interested in this particular one of course. And was there a facility letter prepared or

A. There was indeed, yeah.

Q. And did it disclose the guarantee and the cash-back nature of the guarantee?

A. No, it did not.

Q. And was that at the request of Mr. Traynor?

A. It was.

Q. Well, may I ask you this, I don't want to get into too much



detail about Bank of Ireland private banking, but what is it? Could I ask you that question.

A. It's we are part of Bank of Ireland group providing a personal service to high network or high-income individuals, a small number of clients, either themselves, their families or investment companies.

Q. And are you a branch?

A. We are a branch. We provide all normal services available in any other branch of Bank of Ireland.

Q. But you are specialised?

A. You might say a somewhat specialised branch

Q. Specialised?

A. Yes.

Q. Now, the next one that I'd like to deal with in the next account I'd like to deal with is the Poinciana Fund, and I think you can inform the Tribunal that the background to that on the 19th May 1992, you received a letter from Mr. Traynor requesting that you open a sterling deposit account for Poinciana Fund Limited, is that correct?

A. The background, I was not directly involved in the background of the Poinciana/the next one, Worldwide, because they ran in tandem at that stage, but I have discussed with my colleague.

Q. You can confirm that is what happened

A. I can confirm there was contact from Mr. Traynor, yes.

Q. And I think it it was to a colleague of yours, Mr. Michael Moriarty at the bank?

A. That's correct.

Q. It reads "Re: Ponciana Fund Limited.

"Dear Michael

I have pleasure in enclosing herewith the following:

1. Original Certificate of Incorporation for inspection and return.
2. Memorandum and Articles of Association.
3. Certified copy of register of directors and secretaries
4. Certified address of registered office.
5. Account-opening form duly completed
6. Specimen signatures

"I would be grateful if you could arrange to have a deposit account number for a sterling deposit allotted to this and advise me:

"A, if you have any further requirements before the account may be operated

B, the manner in which funds should be placed to the account.

In this connection I am hoping to transfer œ750,000 sterling for deposit on the 29th May and would appreciate if you could confirm that this is of interest to you.

"Kind regards.

"Yours sincerely." And it's signed on the behalf of

Mr. Traynor by Ms. Williams, his secretary, but you may or may not know who Ms. Williams is. But it is signed on his behalf and it was dictated by Mr. Traynor and signed in his absence anyway.

A. Yes.

Q. Now, I think on the 22nd on the 2nd June 1992, £750,000 sterling was received from Irish Intercontinental Bank Limited by order of Ansbacher Limited for credit of account Poinciana Fund Limited with Bank of Ireland International Banking Division, head office, Lower Baggot Street. Is that correct?

A. That's correct, yes.

Q. And I think you then write to Mr. Traynor confirming receipt of the money on the 2nd June, that you have placed it on deposit for a month, and you give the gross interest rate and the period for which it's on deposit, and then you indicate that: "I shall be obliged if you will arrange for the enclosed form F" that's the non-resident declaration "to be completed on behalf of the company and returned to the bank in due course. I trust the foregoing is in order and if you have queries please do not hesitate to call me."

What was the necessity for the non-resident declaration at that time? Were we still in exchange control times?

A. We were certainly we were in exchange control, but our understanding was that these were funds which were already non-resident prior to transfer, and our internal

documentation requirements would necessitate completion of a fresh statutory declaration to be sure that gross interest would be paid.

Q. Because if they were resident accounts, I suppose you had to take certain steps in relation to them, there was DIRT tax and matters of that nature?

A. They would not be eligible for gross payment of interest.

Q. Yes. Now, I think on the 22nd June 1992, there was a letter from Mr. Traynor confirming his instructions that Poinciana Fund Limited account be closed with balance plus interest be made payable by sterling draft to Ansbacher Limited, isn't that correct?

A. That's correct, yes.

Q. There is a letter from you to Mr. Traynor, and obviously "Further to our recent telephone conversation as arranged, I enclose draft form of authority addressed to our International Banking Division requesting that the above company's deposit account be closed at next rollover date with the balance plus interest being made payable by way of sterling draft to Ansbacher Limited.

Perhaps you would be good enough to have this authority completed and returned to me."

So you were rolling it over on a monthly basis, is that correct? It would appear there?

A. Yes, I think it was a monthly rollover.

Q. Could I just ask you, there may be some just technical

explanation. Why the International Banking Division?

A. The International Banking Division of the Bank of Ireland would hold all the currency accounts. In Fitzwilliam Square we would hold only Irish pounds account. Either loans or deposit and any international currency accounts would be held

Q. There might be a client and a customer of yours, the funds would have to be held in the

A. It would have to be held in a separate location, yeah.

Q. The next document then is on the 6th July 1992, from you to Mr. Traynor. Again, it's: "Re: the Poinciana Fund."

And you say: "I confirm that the above sterling deposit account with our international department matured on Thursday last following which, in line with your instructions, a draft for sterling  $\text{€}755,933.22$  was issued in favour of Ansbacher Limited.

This sum has been placed on deposit in the name of Ansbacher Limited." And the reference is given.

"For one month fixed to 3rd August 1992 at 9.625 percent per annum.

"Interest at maturity will amount to sterling  $\text{€}6378.83$ , giving total amount due of sterling  $\text{€}762,312.05$ .

"Confirmation from our international department is attached for your records."

The calculation would have been done by the International Department I take it, would it?

A. That's correct, yes.

Q. Now, on the 5th February 1993, there is a letter from Mr. Traynor instructing that the Ansbacher Limited deposit account be closed on maturity and the balance transferred to Irish Intercontinental Bank, I think, isn't that right?

A. That's correct, yes.

Q. "Dear Andy" it's 5th February '93 "Thank you for yours of the 4th in the above connection.

"Would you please note that at maturity deposit has to be uplifted. Would you please arrange for the total to be transferred to Irish Intercontinental Bank," to the credit of an account number in the name of Hamilton Ross company.

"Please confirm in due course."

So the instruction had been to take it off deposit and transfer it over to the Hamilton Ross account in Irish Intercontinental Bank.

Now, I think on the 1st March '93, the account was closed and was transferred to Irish Intercontinental Bank and you sent a letter to Mr. Traynor confirming that the sum of œ798,641.09 has today been transferred, as instructed, to the Irish Intercontinental Bank. And then there is a breakdown given of the principal and the interest and the

usual pleasantries in the letter.

A. Yes.

Q. Then on the 18th May '93, there is a letter confirming there is a letter to Mr. Traynor confirming a telephone request to open a new US dollar and sterling account for Poinciana Fund Limited, isn't that correct?

A. That's correct, yes.

Q. And you give the account numbers, that they are with the International Department. And then you say: "On receipt of the funds I should rely on with you towards agreeing rates and terms for both deposits."

And on the 25th May 1993, a half a million pounds sterling was received by order of Hamilton Ross Company and a million US dollars received by order of Poinciana Fund Limited, both sums placed on deposit with the International Division, isn't that correct?

A. That's correct, yes.

Q. Could I just ask you, those deposit rates, are they monthly rates or annual rates or

A. They are three-month fixed.

Q. So that's a rate for three months?

A. Yes, at that time, yes.

Q. I am just comparing it to the other rate that we were talking about a few moments ago. And were these a special type of account that were open for non-resident accounts or

A. I can't comment whether or not the rate certainly the rate would not have been significantly different in terms of cost of fund or rates of interest payable. It would be then prevailing rate allowing some margin, obviously, for the bank.

Q. Could I put it to you this way. You'd indicated to Mr. Traynor you would be in contact with him about rates. Would there be a margin for a bit of negotiation to go on?

A. On both sides, yes.

Q. That's what I mean, yes. Now, I think you were looking for, as usual, you needed to get non-resident forms, didn't you, to open these particular new accounts?

A. Yes. I believe the reference there refers to the need to complete fresh documentation in that the earlier Poinciana account had been closed and that would have had attention at that time with a new lodgment arriving.

Q. And then I think on the 27th August, 1993, there is a letter to Mr. Traynor confirming instructions to place a half a million US dollars, sterling œ332,907.95, with IBI managed currency fund on the 1st September 1993. And you go through that "Further to our recent discussion, I am pleased to confirm the following arrangements:

"Balance plus interest" this is on the US dollar account "totalling US 1,007,027.78 matured on 25th instant.

As per attached confirmation, US \$500,000 of this has been



rolled for a period of one week to 1st September 1993 at 2.625 percent per annum pending placement in IBI Managed Currency on Wednesday next, first proximo. In this connection I attach application form which you might kindly have signed and sealed on behalf of the company.

Balance amounting to just over half a million, has been rolled for a period of one month at 2.75 percent per annum to 24th September 1993."

"And then the sterling deposit is in the amount of 506,931.51 has been rolled for a further period of three months to 25th November 1993 and the interest rate.

"I trust that these arrangements meet with your requirement."

So what was happening here was half of the dollars was being rolled over, is that correct?

A. That's correct.

Q. For a period?

A. For a period.

Q. The sterling was also being rolled over for a period?

A. Yes.

Q. But the other half of the dollars were being used to invest in the IBI managed currency?

A. Yes, a longer term of investment.

Q. What was that? Was it

A. A managed currency fund operated really to designed to

achieve a higher return than standard call of short term  
fixed deposit rate.

Q. Would you be talking about a longer the view might be a  
longer term investment, would that be

A. It would have intended at that time to be longer, yeah, it  
would.

Q. Who managed it?

A. That was managed by IBI Isle of Man.

Q. What's IBI?

A. Sorry, the investment Bank of Ireland.

Q. In the Isle of Man?

A. Yes.

Q. So that that meant that there was a transfer of a half  
million US dollars from the International Division in  
Dublin to the Isle of Man, is that correct?

A. Transferred in sterling, converted to sterling, since the  
fund there was being maintained in sterling and transferred  
to the Isle of Man for investment.

Q. Now, I think Mr. Traynor died in fact, on the 11th May  
1994, I think, is that correct, or thereabouts?

A. I believe so, yes.

Q. And next thing that you have is on the 24th May 1994, there  
is instructions from Joan Williams, who was an authorised  
signatory, to transfer the balance plus interest of  
Poinciana Limited sterling deposit account of 526,297.09 to  
the Royal Bank of Scotland London for credit to Irish  
Intercontinental Bank, isn't that correct?

A. That's correct, yes.

Q. If we just look at the top again. That's a fax transmission from 42 Fitzwilliam Square, which was where Mr. Traynor conducted his affairs with you from anyway?

A. Yes, certainly.

Q. And what was happening there is that the sterling deposit, which was with your international division isn't that correct?

A. Correct.

Q. was to be, in fact, transferred back to Irish Intercontinental Bank but through the Royal Bank of Scotland in London, isn't that correct?

A. Correct.

Q. Which was the corresponding of Irish Intercontinental Bank, or you may or may not know that.

Now, could I ask you this: Would there have been any difficulty, to the best of your knowledge I know you weren't in the international division, but would there have been any technical difficulty in transferring the funds from your international division back into the Irish Intercontinental Bank provided it remained as a sterling account and it was going back into a non-resident account in Irish Intercontinental Bank?

A. Not that I am aware of, no, it would not be governed by exchange control and would have been completely transferable in the manner set up.

Q. And normal declarations might have to be sought, but there

was no technical reason why that couldn't have been done,  
so far as you know?

A. Not to my knowledge.

Q. Now, I think on the 9th January, '95, there was an  
instruction from Joan Williams to forward further  
correspondence to Managements and Investment Services at 8  
Inns Court, Winetavern Street, Dublin 8. That's  
communications relating to the Poinciana Fund Limited, is  
that correct?

A. That's correct, yes.

Q. And I think then on the 16th May, 1997, you received a fax  
from John Furze instructing that the Poinciana Fund US  
account dollar account be closed and the balance  
transferred to the Bank of America International for credit  
of Cayman National Bank Limited for the benefit of Western  
International Trust Company, is that correct?

A. That is so.

Q. Now, you may or may not remember, but can you remember,  
just of your own knowledge, was that during the course of  
the Tribunal being conducted by Mr. Justice McCracken?

A. I believe it was, yes.

Q. So once that particular instruction was complied with,  
there were no further Poinciana funds under the control or,  
sorry, on deposit with Bank of Ireland one way or the  
other, is that correct? I mean, either through the IBI  
managed currency or in the foreign division, as far as you  
know?

A. As far as I know, yes, that that finished the connection.

Q. That finished the Poinciana?

A. Yeah.

Q. And I think there was a further request that the holding in the IBI Global Fund Managed Fund be sold and the sterling proceeds transferred again to the National Westminster Bank for the credit of Cayman National Bank for the benefit of Western International Trust.

A. That's correct.

Q. And then on the 11th July, 1997, there is just a fax message, which is a confirmation from you to that effect, isn't that correct?

A. That's so, yes.

Q. Now, the next account which you may be able to assist the Tribunal on is Tara Securities Limited, isn't that correct? I think on the 16th June 1993, Mr. Traynor requested that private banking open three currency deposit accounts for Tara Securities Limited, that was US dollar account, a deutschemark and a sterling account, is that correct?

A. That is correct, yes.

Q. And I think that on the 5th July 1993, confirmation was forwarded to Mr. Traynor following receipt of funds from Irish Intercontinental Bank, œ375,000 sterling, 1,710,768 deutschemark and 408,427 US dollars, is that correct?

A. That's correct, yes.

Q. And the accounts were opened and funds placed on deposit

with Bank of Ireland International Banking Division head office in Lower Baggot Street, is that correct?

A. That's correct, yes.

Q. And I think we have a copy of the International Division's letter to your branch at private banking just confirming the transaction, isn't that correct? I don't think we need to

A. Yes, that's right.

Q. read the whole letter out, but it just shows the figures, if we just move it up

A. That's correct.

Q. And the number of the account and the rates applicable and maturity dates and matters of that nature.

Now, I think if I just ask you to look a letter came from Mr. Traynor on the 8th July 1993, re: Tara Securities Limited, and he encloses herewith letter from Tara Securities Limited confirming the directors and officers of the company together with the account-opening documentation. Isn't that correct?

And there was a certificate of incorporation with that and that's a certificate of incorporation of a Cayman company, as far as it appears on the certificate.

A. Yes.

Q. And also with the letter came an application for the opening or the continuing accounts of corporate or unincorporated bodies of the Bank of Ireland, and I think

it's signed on behalf of Tara Securities by John Furze,

isn't that correct?

A. That's correct, yes.

Q. Who is designated as the president director of the company.

Now, I think on the 30th August 1993, there were instructions from Mr. Traynor to transfer funds in the three currency accounts to sterling and to switch to the IBI global fund Isle of Man Limited on the 1st September 1993, isn't that correct?

A. That's correct, yes.

Q. "Please arrange to convert balance plus interest to sterling on 1st September 1993 and transfer sterling amount by telegraphic transfer to IBI managers account as highlighted on attached share application form.

Value date must be Wednesday, 1st September 1993, with confirmation to go to IBI managers (Jonathan Garth) on Tuesday 31st August 1993.

Any difficulties please discuss."

That's a confirmation of the particular

A. The transfer.

Q. Transfer. Now, that is the same fund in the Isle of Man that we saw that the Poinciana Fund monies or portions of them went into at some stage, isn't that correct?

A. In the same pool of funds, yes.

Q. Same pool of funds.

Now, on the 1st September 1993, the accounts at Bank of Ireland International Banking were closed with œ1,342,264 sterling equivalent transferred to the global funds in the Isle of Man, the IBI global funds in the Isle of Man, isn't that correct?

A. That's correct, yeah.

Q. Now, I think you also furnished to the Tribunal a letter which you have written to the fund managers in the Isle of Man re these three particular accounts or the name the accounts in those particular names, and you say: "Dear Sir, a note to confirm that to our best knowledge and belief the beneficial owners of the above companies are not resident in the Cayman Islands. Should you require any further information, please contact the undersigned. Yours faithfully."

And there is a handwritten note on it "not Cayman resident". First of all, do you know whose handwriting that is?

A. I do indeed, yes.

Q. Whose is it?

A. It is Michael Moriarty.

Q. And he was in private banking with you?

A. I think that might have been a yellow sticky panned afterwards and left on the file.

Q. I see. Yes. What significance, if any, is there to be



attached to that letter?

A. I had an inquiry from my colleagues in the Isle of Man, in IBI Isle of Man, who sought assurance that the beneficial owners of the funds being transferred were not resident in the Cayman, and on inquiry, I sought that assurance from Mr. Traynor who gave me a confirmation they were not, and I conveyed that to the Isle of Man.

Q. But what was the significance of the inquiry being made by the Isle of Man? That's what I am really trying to understand.

A. Confirmation was required because the funds were not available for entry to residents of the Cayman or residents of the Isle of Man and was part of their verification process that they had to ensure that funds coming in were not available to Isle of Man or Cayman residence.

Q. Because they may have been placing funds in such places they may have been?

A. They were operated and managed from the Isle of Man and registered in the Cayman and as such debarred from entry of residents of those jurisdictions. It wouldn't be unusual from the treatment of funds in the IFSC where they are set up in Ireland but not open to residents

Q. Irish residents?

A. Yeah.

Q. And this particular investment fund was managed from the Isle of Man but was, did you say, registered?

A. Registered in the Cayman, yes.

Q. What does "registered in the Cayman" mean? Again, it may be something that it wasn't part of your particular area of expertise?

A. Well, whether the holding company was registered in the Cayman or not, I can't say. But the specific request was to ensure that the beneficial owners of the funds, company or otherwise, were not Cayman residence or Cayman connection; just to ensure that the Isle of Man people were complying with their requirements under legislation.

Q. So to the best of your knowledge, the IBI fund managers or the IBI global funds Isle of Man Limited was a Cayman registered company, to the best of your knowledge?

A. Yes.

Q. Now, I think on the 6th December 1993, there was a request to encash the IBI global funds and transfer the proceeds to the Royal Bank of Scotland for account Henry Ansbacher & Company Limited for further credit to Cayman International Bank and Trust Company Limited for sub account Tara Securities Limited. So it seems that an instruction came to go through some correspondent, the correspondent bank for somebody, and the ultimate home was to be Cayman International Bank and Trust Company for the account Tara Securities Limited, is that correct?

A. That's correct, yes.

Q. I think on the 9th December, 1993 there was a memorandum to the IBI managers of the Isle of Man Limited outlining background to request for early encashment, Mr. Traynor

explained that the beneficial owners were availing of recent amnesty and funds were being pooled and likely to be redeposited later, is that correct?

A. That's correct, yes.

Q. And it's a facsimile message. It's to Mr. Sheridan in the Isle of Man from you, and it was dated 9th December 1993 and the subject was Penta/Tara:

"Following our telephone conversation a note to confirm that:

Both companies, Cayman registered, were introduced to us by a prominent undoubted contact.

"Whilst we suspected that the beneficial owners were Irish residents, this was never divulged until announcement of recent amnesty.

Request to transfer funds to Royal Bank of Scotland London, is, I understand a pooling arrangement to ensure that all external funds held for the individuals in question are in sterling.

Our contact has indicated that the entire funds will again be made available to us after acceptance/clearance with the Irish Revenue authorities.

I trust that this note suffices for your file and look forward to your confirmation of amounts transferred."

So, I think that that was you were just informing

Mr. Sheridan there had been an amnesty declared here in Ireland. These funds were required for the purpose of that amnesty by Irish residents, isn't that correct?

A. Well, I was responding to a specific query from the Isle of Man as to why

Q. Line for line or inquiry by inquiry do you think?

A. As to why the breakage was to occur in such a relatively short period. And I contacted Mr. Traynor at the time and queried why the breakage was to occur in what was originally intended to be a longer term investment and that is practically that is verbatim as he gave it to me.

Q. As he gave it to you.

And I think you very fairly state there that private banking suspected that the beneficial owners were Irish residence?

A. Well

Q. Isn't that fair to say?

A. Yes, I would have to say that whilst Mr. Traynor had initially stated that he was handling the affairs of a number of people, he was very cautious in not divulging the name of any of these people

Q. Of course

A. And the suspicions were somewhat allayed clearly by submission of proper documentation and proper the statutory declarations of non-residency, coupled with the fact that the funds came to us from another Irish bank,

IIB, and had been in place in Ireland.

Q. I am not suggesting that you didn't get the proper documentation or didn't get the proper declarations or Mr. Traynor didn't, but I suppose as plain as the nose on your face, Mr. Traynor was conducting all the business here in Dublin, wasn't he?

A. Yes, exactly.

Q. And just to be clear about these particular funds. The purpose that they were being done, as declared to you, was to take advantage of the amnesty and you were hoping that you might get the business again after the position had been dealt with by the Revenue authorities?

A. Or the Isle of Man as it were.

Q. Sorry, the Isle of Man. But that business would come back, less perhaps 15 percent or whatever the amnesty figure might be.

A. Yes.

Q. Now, I think that there was a final letter dated December 15th of 1993 to Mr. Traynor confirming that the account was closed and the balance was transferred to the Royal Bank of Scotland in London for the account of Henry Ansbacher and Company Limited for the account of Cayman International Bank re Tara securities account, isn't that correct?

A. That's correct.

Q. Now, I think the next account was Penta Investments Limited, and I think it's identical to the Tara investment, isn't that correct?

A. It is. In fact, they were opened at the same time.

Q. And just the sums of money were œ500,000 sterling, Deutschemark 1,056,033, US dollars, 231,098.56, isn't that correct?

A. That's correct, yes.

Q. And they followed I don't think there is need, Sir, to go through the documentation. It's just similar documentation, but the name is Penta rather than Tara, isn't that correct?

A. That's correct.

Q. They followed the same route to the Isle of Man?

A. That is correct.

Q. It was transferred, encashed early, transferred to the Royal Bank of Scotland again for the account of the Cayman bank, for the account of Penta, isn't that correct?

A. That is correct.

Q. And the explanation being given to you was that it was the funds were being used to take advantage of the amnesty.

A. Yes, for both Tara and Penta.

Q. For both Tara and Penta.

And then I think the final account that I want you to deal with is the Worldwide Management & Consultancy Services Limited account, isn't that correct, which Mr. Traynor, in May of 19th May 1992, Mr. Traynor requested that private banking open a sterling deposit account for Worldwide

Management & Consultancy Services Limited. And that on the 2nd June 1992, again I think this was a Cayman company, isn't that correct, Worldwide management?

A. That's correct, yes.

Q. And the usual documentation, memorandum, articles of association, signatories, resolutions, and matters of that nature, were dealt with in the normal

A. Account-opening

Q. And proper documentary basis for opening an account with you, weren't they?

A. They were, yes.

Q. I think on the 2nd June 1992, £750,000 sterling was received from Irish Intercontinental Bank by order of Ansbacher Limited for the credit of the account of Worldwide Management & Consultancy Services Limited with Bank of Ireland International Banking Division, head office, Lower Baggot Street, isn't that correct?

A. That's correct.

Q. That's the letter, you are confirming it there in that letter, and the amount is £750,000 sterling. And I think no transactions occurred other than the opening lodgment and the addition of interest?

A. That's correct.

Q. It was an investment effectively?

A. Yes.

Q. I think on the 22nd June 1992, there was an internal memorandum requesting preparation of documentation to close

Worldwide and Poinciana funds and issue drafts to Ansbacher Limited, is that correct?

A. That's correct, yes.

Q. And on the 2nd July, 1992, Worldwide Management and Consultancy Services Limited account closed and the balance of £755,933 sterling was transferred to a new account, Ansbacher Limited, and a new number was allocated to the account, is that correct?

A. That's right.

Q. I think that is the internal memorandum. We have been through the essence of it, is that right?

A. Yes.

Q. I think on the 15th February of 1993, there was a letter from Mr. Traynor instructing that on maturity of Ansbacher Limited 354 deposit, that balance should be transferred to Irish Intercontinental Bank for the account of Hamilton Ross and Company Limited, is that correct?

A. That is correct, yes.

Q. In fact, there is an example of a direct transfer, isn't that right?

A. Yes, yes.

Q. Of foreign currency?

A. Yes.

Q. Foreign funds, yes.

So you must have been correct in your view that there was no technical reason why the monies had to go through the Royal Bank of Scotland or anything?



A. No, I'd say there was no technical reason.

Q. And I think on the 1st March of 1993, the account, or the Ansbacher Limited 354 account was closed and the balance of œ798,641 sterling was transferred to Irish Intercontinental Bank for the account of Hamilton Ross, isn't that right?

A. That's correct, yes.

Q. That was the end of your dealings in respect of that?

A. Yes.

Q. I think that is the history of the accounts you have been asked by the Tribunal to deal with in relation to Mr. Traynor, isn't that correct?

A. Yes. I think we have covered except

Q. I am not asking you about anything personal.

A. That is it, yes.

Q. Now, I think I'll just ask you to deal with just a couple of documents, if you might, Mr. Brennan, and I think they relate to letters being addressed to 42 Fitzwilliam Square and Mr. Traynor being a little bit irate about it. Do you mind if we just deal with those.

A. Yes.

Q. I think there is a memorandum, and if we just put it up, it's from you to the International Division, isn't that right?

A. That's correct, yes.

Q. And it relates to the Worldwide Management and Consultancy Services Limited and the Poinciana Limited accounts.

A. That's correct.

Q. And I think you say that: "Further to our telephone conversation this morning, I attach copies of the offending correspondence in envelopes for your attention/comment.

"For our part we accept that the accommodation addressed at No. 42 should not have been forwarded to you in the first place. However, our client contact is most upset, not only at the inclusion of the word 'Private Banking' under each company name, particularly on each envelope, but also that correspondence was sent directly to that address and not to us here at number 35 Fitzwilliam Square as requested.

Comment was also passed on the addressee format, the absence of private and confidential, and omission of 'the secretary' gave rise to further concern.

"Position relating to continuance of these deposits is uncertain. However, for the present, would you please ensure that separate files are maintained for each company and that the address of each is care of this office."

I take it Mr. Traynor had been on the phone and been irritated about something that had occurred, would that be correct to say?

A. He was, having been assured that correspondence, as with all our clients, would be routed through our office at 35, to find then that we had made an error in our International Banking Division which led to a letter going directly to him at his what was then his office at the offices of

CRH.

Q. So can I take it that 35 Fitzwilliam Square, being the office of Private Banking, that in the normal course, Mr. Traynor would have arranged to have correspondence collected from 35, would that be how it

A. Well, all correspondence would be coordinated by us and sent out for various accounts sent out to all clients, in that we would gather correspondence from all units in the bank and there would be nothing unusual about that. All other International Banking foreign currency accounts would statements would come, correspondence would come to our office and be added to ordinary Irish pound statements and then sent out to the client.

Q. Well, just to be clear about that, and to make sure there is no confusion in the public's mind, Private Banking is, in effect, no different to any other branch other than it looks after a certain type of client, is that correct?

A. That's correct, yes.

Q. And the business of that client may be conducted by other parts of Bank of Ireland or other branches of Bank of Ireland even, isn't that correct?

A. That is correct, yes.

Q. But all information should come back to the client's branch, which is your branch, is that correct?

A. That's correct.

Q. And then you would furnish the information to your customer or client?

A. We furnished a consolidated account or report of the various accounts maintained.

Q. Can you remember whether you sent that to Mr. Traynor or was it hand-delivered to 42 Fitzwilliam Square? Was it collected from 35? You can't have been too far away from each other there.

A. As the attached the offending document in are we speaking about the offending document?

Q. Yes.

A. As the attached photocopy of the envelope would show, it was sent by other international banking

Q. I'll come to that in a moment.

The mistake, as Mr. Traynor saw it, didn't come from your branch, it came from International Banking division, isn't that correct, but they sent something straight to 42 Fitzwilliam Square.

A. That's right.

Q. And I'll come to that in a moment, but just in the normal course of business and just and nothing wrong with this, your clients' business would be dealt with by you, is that correct?

A. Yes, that's correct.

Q. In the case of Mr. Traynor, what I am trying to get at here, would you, in the normal course of dealing with Mr. Traynor, have posted stuff to 42 Fitzwilliam Square or would it have been dropped around by a courier or a messenger in the bank or would it have been collected by

Mr. Traynor, can you remember?

A. Very clearly, because the distance between our offices might be a little further than the length of this room.

It was a hand-delivery within that catchment hand-delivery areas, as other areas and clients too. Anybody in the general

Q. In the Dublin 2 area or close to the office anyway?

A. Yes.

Q. Now, let's just have a look at what the International Division is. They addressed an envelope and it's clearly coming from the Bank of Ireland, isn't it, from the stamp on the top? And it's addressed to that's in the first instance, that one is Worldwide Management & Consultancy Services Limited, under that Private Banking, 42 Fitzwilliam Square, Dublin 2, and the other one is Poinciana Fund Limited, Private Banking, 42 Fitzwilliam Square, Dublin 2.

A. That's correct.

Q. And the other one, the Poinciana, it's the same. And it was as a result of this I don't want to accuse the International Banking Division of making an error, but it was as a result of this form of addressing of the envelope to Mr. Traynor, that Mr. Traynor became concerned, is that correct?

A. Well, yes, annoyed.

Q. Annoyed. Would that be a mild way of expressing

A. Well, he was a mild man. Annoyed, yes.

Q. And he wanted to make sure that this did not happen again. And can we take it that that would have just gone out in the ordinary post and would have arrived at 42 Fitzwilliam Square just in the ordinary post?

A. Yes.

Q. Now, I think you did get a response and I don't think from the International Division, and perhaps in fairness to them it should be shown. It's been told, Mr. Divney has asked the writer to reply to your internal memorandum and he explains the background.

"First of all, I can confirm that the address on all four accounts is now showing 35 Fitzwilliam Square with no mention of 'Private Banking' on any of the accounts.

"With regard to the addressee format, it would be unusual for us to use either 'private and confidential' unless the correspondence was addressed to a particular individual who had requested us to reply in that manner.

"Likewise, it would not be usual practice to address correspondence to 'the secretary'...once again to apologise for any embarrassment caused to you. I trust that the continuance of these deposits has not been jeopardised by what has occurred."

So, they are dealing with that.

Now, I think, could I ask you this, Mr. Brennan, I think

you did meet Mr. John Furze, didn't you?

A. I did, yes.

Q. And how many times did you meet him, do you recollect?

A. On one occasion.

Q. One occasion.

And what was the purpose of the meeting?

A. We had invited Des Traynor to lunch on a number of occasions and he had well, not the client, but was not available and he responded by accepting an invitation at a time when he suggested John Furze would be in town. And since Mr. Furze was a signatory on most of the accounts with Private Banking, Des Traynor suggested that we should bring he might bring Mr. Furze with him to that lunch.

Q. And was it just a social occasion?

A. It was very much a social business lunch.

Q. And was there any discussion about I take it you might have been interested in getting more deposits if you could?

A. Well, I don't recall soliciting and we do I recall discussing the recent investments which had been made with the funds in Investment Bank of Ireland Isle of Man, but we didn't talk specifically about any new business, nor was any further business done. We did no further business.

Q. I think that's true. There was no further business done.

A. And nor was there any mention of any individual in fact, I really don't think anything that would be of benefit to the Tribunal.

Q. We saw in the case of Newco about disclosures, the group legal department making inquiries about disclosures. To your knowledge, are there still funds on deposit in Bank of Ireland from this Cayman source?

A. No.

Q. And had they left Bank of Ireland by the time of the McCracken Tribunal or thereabouts, to the best of your knowledge?

A. If you could give me an approximate date, I could tell.

Q. Well, let's take mid '97.

A. No, they had left prior to that.

Q. They had left prior to that?

A. Yes.

Q. So can we take it that by May of 1997, there were no more funds, to the best of your knowledge, with Bank of Ireland May or June of '97?

A. June, I believe, would have been the final date for the Poinciana collection.

MR. COUGHLAN: Thank you, Mr. Brennan.

CHAIRMAN: Thank you very much, indeed, for your assistance, Mr. Brennan.

THE WITNESS THEN WITHDREW.

MR. COUGHLAN: Those, Sir, are the witnesses for today.

And because of the lack of availability of witnesses tomorrow, we only have one witness, it would be a very



short day, so in the circumstances I would suggest, Sir,

that we should adjourn until Tuesday at 10:30.

CHAIRMAN: I understand there has been a bereavement which

has caused difficulties today, and I share your view,

Mr. Coughlan, that the expense of setting up the hearing is

not warranted for a very brief day that could be

incorporated as part of the further business being resumed

on Tuesday.

MR. COUGHLAN: That is correct, Sir, at 10:30.

THE TRIBUNAL THEN ADJOURNED UNTIL TUESDAY, 29TH FEBRUARY,

2000 AT 10:30AM.