

THE TRIBUNAL RESUMED AS FOLLOWS ON TUESDAY, 17TH JULY,
2001 AT 11 A.M.

MR. HEALY: Yes, Sir, Mr. Michael Cullen, please.

MR. GLEESON: Chairman, before the witness takes the
box, I wonder could I apply for representation. I
appear for Mr. Aidan Phelan instructed by A & L
Goodbody. On that basis I am applying for
representation.

CHAIRMAN: I think from the examination of intended
evidence in private, of which you will be aware,
Mr. Gleeson, I think it is appropriate that I accede on
the usual terms to that application, a grant of limited
representation in regard to Mr. Aidan Phelan in regard
to yourself and your instructing solicitor.

MR. SHIPSEY: Sir, I appear on behalf of Mr. Michael
Tunney with Ms.

CHAIRMAN: I am afraid, Mr. Shipsey, I appear, I
suffer from, today, an unhappy condition of temporary
deafness. You are going to have to be loud and clear.

MR. SHIPSEY: I appear with Ms. Eileen Barrington on
behalf of Mr. Michael Tunney seeking limited
representation on behalf of Mr. Tunney in respect of
this portion of the Tribunal's investigations.

CHAIRMAN: Well, again on the usual terms, Mr. Shipsey,

I am a little diffident about granting an inordinate number of representation orders, but again, I am aware that Mr. Tunney has been involved in private investigations and on the basis I have indicated I will accede to it.

MR. CLARKE: Finally Sir, I am sorry to add to those points of representation, but I appear for Investec Bank (UK) Limited and also for Mr. Michael Cullen, Mr. Anthony Morland and Mr. Ian Wohlman, all of whom are due to give evidence before you.

CHAIRMAN: Effectively, Mr. Clarke, I am aware that your office has cooperated with the Tribunal legal team and effectively, if I am to make a similar limited representation order in regard to Investec bank UK, that will effectively encompass today's three intended witnesses.

MR. CLARKE: It will, Sir, thank you.

MICHAEL CULLEN, HAVING BEEN SWORN, WAS EXAMINED AS FOLLOWS BY MR. HEALY:

Q. MR. HEALY: You are the Chief Executive of Gandon Capital Markets, isn't that right, or at least you were in 1999 and you continue to have a role in Investec Gandon, the new incarnation of what was formerly Woodchester Bank, is that right, and its associates?

A. Mr. Healy, just, I suppose, some of the names there to

be absolutely sure. GE Capital Woodchester Bank was the bank. I was the Treasury Director. GE Capital Banks Assets, some of the assets and some of the liabilities were taken over by Investec Bank UK.

Gandon Capital Markets was our trading name but is not the legal entity in respect of the transactions.

Q. Can I put it in simple terms for myself; were you an executive of the bank known as GE Capital Woodchester in 1999?

A. Yes.

Q. And is that the bank that has now been taken over by Investec, putting it in its broadest terms?

A. In its broadest terms, yes.

Q. Now, you have provided the Tribunal with a statement and also the bank has provided the Tribunal with a considerable amount of documentation, isn't that right?

A. Yes.

Q. Do you have a copy of your statement with you?

A. I do.

Q. Before I deal with your statement I think I should just clarify one or two matters with you. The information contained in your statement and in the statements of some of your colleagues and the considerable amount of documentation made available by Investec was brought to the attention of the Tribunal on the initiative of Investec itself, isn't that right?

A. Yes, as prompted by the Central Bank.

Q. It was as a result of certain matters that came to the attention of Investec executives that Investec felt obliged to take the matter up with the Central Bank and, having discussed their obligations with the Central Bank, then came more or less directly to the Tribunal, is that right?

A. Yes.

Q. Now, I intend to take you through your statement and then I propose to go through most of the documents, initially simply so as to identify them. Some of them I'll go into in some detail and some of them will be referred to in greater detail by other witnesses, but as you are the first witness and I suppose the witness who was involved in this, in the matters I am going to refer to from the beginning to the end, I think I hope you will bear with me in going through most of these documents with which I think you are familiar, is that right?

A. Yes.

Q. In your statement you say "In late December of 1999 in my capacity as Chief Executive of Gandon Capital Markets and as a senior executive of GE Capital Woodchester bank, I was made aware of a loan application which was introduced to the bank by Aidan Phelan. Mr. Phelan was well-known to the bank and the loan application was handled by Mr. Michael Tunney. Mr. Tunney, who was a senior executive of the bank, was

the person who originally told me of the loan application and who was the executive who handled most dealings with Mr. Phelan. The loan of sterling £420,000 was for the purchase of a property in Manchester and the borrower was a company called Catclause Limited.

Credit approval for the loan application was sought on the basis that a first charge over the property would be given to the bank and that the bank would be provided with a guarantee of a high net worth individual, a Mr. Daly. Mr. Daly was not known to the bank but independent confirmation as to his creditworthiness was to be sought. In addition Mr. Tunney told me that Mr. Denis O'Brien was aware of the transaction. Mr. Phelan has often represented Mr. O'Brien in dealings with the bank so there was nothing surprising about the reference to Mr. O'Brien. I understood Mr. Tunney to intend Mr. O'Brien's connection to be of extra comfort to the bank but it had little bearing on the credit approval, in fact, since this was to be independently secured. At no stage therefore, did I seek or direct any contact with Mr. O'Brien to establish what, if any, connection he might have with the subject of the loan. In giving my credit approval, I understood that the funds were required urgently to complete the purchase of the

property by the company with which Mr. Phelan was associated. That association was important but hadn't regard to the independent guarantee which was to be given by Mr. Daly, I was not concerned to get any guarantee from Mr. Phelan." That's correct, isn't it?

A. Yes.

Q. You say "At the time of the loan application, Investec bank UK had agreed to acquire the loan assets and most of the liabilities of the GE Capital Woodchester bank with effect on the 2nd April from the 2nd April, 2001. This transaction was the subject of a transfer application under the Central Bank Act 1971 and in view of the agreement, it had been agreed that in the meantime all new credit applications were to be submitted to the credit department of Investec for approval."

Now, if I could just firstly go back over some of the points you have made in that part of your statement. The evidence that, in the form of documentation that you have provided to the Tribunal and the other evidence that will be given by executives of the bank concerns a loan that was taken out in the name of a company called Catclause, isn't that right?

A. Yes.

Q. You say that you were made aware of the loan application as one which was introduced to the bank by Aidan Phelan. Can you say when or how you were made

aware of the application in the first instance?

A. Mr. Tunney, Michael Tunney would have brought the outline of the deal and discussed it with me and would have indicated that Aidan, this was a transaction brought by Aidan Phelan.

Q. At that stage did you know who Catclause was?

A. I was aware that Catclause was going to be a special purpose vehicle for the transaction. It had no particular significance.

Q. You didn't know at that stage we'll come to this at the very end of your statement that Catclause was a company of which Mr. Michael Lowry was a director, isn't that right?

A. I did not know that.

Q. You say that credit approval for the loan application was sought on the basis that a first charge over the property would be given to the bank and that the bank would be provided with a guarantee of a high net worth individual, a Mr. Daly, who you say was not known to the bank. The bank sought certain confirmation of Mr. Daly's creditworthiness, and we'll come to that in the documents, but did Mr. Phelan or Mr. Tunney say anything to you about Mr. Daly at this stage?

A. At this stage I would not have had any direct contact with Mr. Phelan. So on that side, no. In relation yes, Michael Tunney would have indicated that he, Mr. Daly, he would be getting information

about the creditworthiness of Mr. Daly.

Q. You then say that you understood from Mr. Tunney that Denis O'Brien was aware of the transaction. Can you tell me what you mean by saying Mr. Denis O'Brien was aware of the transaction?

A. At the time, reflecting back, it probably is that Michael had mentioned that Denis O'Brien was aware that he knew of the transaction that was going that an application was before the bank, that he was aware of it. My understanding probably was that he may or may not have had some interest in the transaction and that would have been my understanding of what those words meant at the time. From a credit viewpoint, he was not behind the transaction in terms of the credit application.

Q. You were aware that Mr. O'Brien had an association with your bank for some considerable time prior to this loan application, would that be right?

A. Yes.

Q. And Mr. Tunney was telling you that Mr. Denis O'Brien was aware of or knew of this transaction and presumably he wasn't telling you that he knew of it simply on the basis that this was a fact, this was simply a fact or a situation that Mr. O'Brien had knowledge of. He wasn't simply communicating to you some knowledge that Mr. O'Brien had?

A. Sorry, Mr. Healy, I don't understand the point.

Q. It's your use of the word "Aware" that is that I want to inquire about. You say that Mr. Tunney told that you Mr. O'Brien was aware of the transaction.

That, I think, as you have just indicated a moment ago, wasn't simply telling you that Mr. O'Brien had some knowledge of this transaction. It was intended to convey some connection between Mr. O'Brien and the transaction?

A. In these circumstances what I would take that to mean, if it was another name was used, it was to help in terms of the credit approval of the transaction. If I could explain; that a valuable customer of the bank, Mr. O'Brien, was aware of this transaction. He wasn't from a legal viewpoint he wasn't, from our viewpoint, going to be directly involved in it but he was aware of it. That in terms of information given to me was, I would have always taken that as something to give me some comfort in terms of it and perhaps to help the credit process.

Q. But how would that comfort come into play?

A. A very good question. That comfort may never come into play. But if I was to say in ordinary circumstances what one would mean for that would be that if the transaction got into difficulties, that the bank in some shape or form would not suffer credit loss on it or that the transaction wouldn't be allowed to get into difficulties.

Q. And that if it got into difficulties Mr. O'Brien would become involved in some way in supporting the transaction, although not legally doing so, but in giving some assistance or in some way sorting it out, is that what you are saying to me?

A. Interpreting the words, you know, what at the time what we did, we ignored the words "from our credit viewpoint". The words, "as understood" said that there would be a comfort factor that Mr. O'Brien was aware of this transaction that had been brought by Mr. Phelan.

Q. And do I understand you to say that if the transaction went wrong or got into difficulty, you understood that to mean that Mr. O'Brien would ensure that the bank were not embarrassed by the bank not having to enforce its right against somebody or that the bank would be in some way

A. we could

Q. helped to resolve any difficulties that might arise in connection with the transaction?

A. I wouldn't go so far as you have said, Mr. Healy. That the bank would get comfort, extra comfort that Mr. O'Brien, as indicated, you know, if he was behind the transaction, the word used that Mr. O'Brien was 'aware' of the transaction would imply that, to me, that if the the transaction would not be let get into difficulty.

Q. You say in the second last sentence on the second

paragraph of the first page of your statement "In giving my credit approval, I understood that the funds were required urgently to complete the purchase of the property by the company with which Mr. Phelan was associated."

Now, as you say, this company was a special-purpose vehicle set up in order to effect this transaction, that was your understanding?

A. That was my understanding.

Q. And in describing the company as a company with which Mr. Phelan was associated, do I take it that you believed it to be Mr. Phelan's company?

A. Yes.

Q. Did you see anything unusual in a Mr. Daly or this particular Mr. Daly becoming involved in a transaction being carried through by Mr. Phelan?

A. Slightly.

Q. Because you had never heard of him before?

A. Yes, that of itself probably wouldn't have astonished me because we would have been able to verify the wealth just for a transaction of this size that another party was required and that perhaps that Aidan Phelan wasn't doing it a hundred percent himself. That was the surprise, that another party for a transaction of this size was involved.

Q. In the ordinary way in a transaction of this kind where

you have a third party guarantor, let me put it that way, you'd assume that the third party guarantor would have some involvement in the underlying transaction, would that be right?

A. He would have to give a guarantee, I would expect the guarantor to have an interest in the outcome of the transaction.

Q. In this case, I don't think you were informed, at least you weren't expressly informed, that Mr. Daly had any interest in the outcome of the transaction?

A. That is true.

CHAIRMAN: There is one document that did suggest that.

Q. MR. HEALY: Is that right, Sir? Maybe I haven't we may come to it in the documents.

You go on to say Mr. Tunney and the staff of the bank reporting to him were responsible for ensuring that the securities and other preconditions for the loan had been satisfied and for having Investec approve the application. Mr. Tunney dealt with Mr. Wohlman of Investec in respect of the application. Mr. Tunney mentioned to me that Investec had some queries about this but he said that he was confident that any approval needed would be received and I was not further involved in that question. My own view was that since the loan was relatively small, there was little cause for concern having regard to the people involved and

provided that the agreed security was put in place."

Can you tell me, Mr. Cullen, what you mean when you say that Mr. Tunney mentioned to you that Investec had some queries about the transaction?

A. At that particular time, we were in the throes of moving from GE Capital Woodchester bank to becoming a branch of Investec. We were in the interregnum period.

Mr. Tunney in that context, the agreement was we would have Dublin approval for the transaction. That was what my signature was intended to convey. Michael then had to process the transaction with Investec Bank (UK) from the credit viewpoint. This was one of the earlier deals or first deals we had approached Investec with and therefore it was, in a sense, getting a feel for their credit appetite, their understanding.

Michael made that approach to Mr. Wohlman and after that approach he indicated to me there had been some issues and that Mr. Wohlman had some queries in respect of the credit. He had some queries in respect of pricing and on the securities side.

Q. And you were also told by Mr. Tunney that he felt he'd be able to deal with all of those queries?

A. Yes. And you know, as I reiterate in my statement, the transaction from my viewpoint, I would have expected myself to be able to deal with the queries.

Q. You say that "When meeting with Mr. Wohlman in January

of 2000 to discuss a number of matters, he told me that he had been annoyed that the loan to Catclause had been disbursed without his approval. He was particularly annoyed that he had not been told that, as seemed to be the case, a commitment had been given by the bank to the making of the loan before Investec's approval had been obtained. I do not recall having taken up these points with Mr. Tunney. As I have said, I did not regard the risks attached to the loan as very high."

Is this a reference to something which will become clearer from the documents, that or to something involving the actual granting of the loan? Is there, in fact, a suggestion that the loan was okayed or a commitment given in Dublin very soon after the initial application was made and without any approval from London?

A. Yes.

Q. Did that mean that when the queries came from Mr. Wohlman therefore, answering them one way or another wouldn't have made any difference, the money had already been disbursed?

A. Yes.

Q. Can you see how I am slightly puzzled by that? What is the point in raising the queries or in considering whether you should or should not make a loan on whatever terms to some individual if you have already disbursed the money?

A. I take your point, Mr. Healy. This was an unusual transaction and wouldn't normally happen this would not be the way it would normally happen

CHAIRMAN: Is what you are saying, Mr. Cullen, is that the procedures in this were on the outer limits of your vetting procedures with Mr. Wohlman but because of the relatively limited amount and the personnel involved, you felt it was satisfactory to adopt the procedure in this case but might have been more hesitant on a larger transaction involving persons not known to you?

A. Sir, not quite. The what you say, you know it happened, it should not have happened this way. I didn't become formally aware of it until January that it had happened this particular way. It was not normal for ourselves to handle the transaction but the circumstances you outline give a reasonable explanation of why it happened the way it did, both the quality of the people behind the transaction, the amount of monies involved and the fact that it was a new environment that we were working in. We were all finding our feet in this interregnum period and that conversation had been held, yet formal approval hadn't been given, so there was Mr. Healy is right in his point, in his overall point, this is not the way it would normally happen.

Q. MR. HEALY: But you say that there was circumstances

which inevitably, or in any case, meant that you didn't feel at risk because, as you say, of the people behind the transaction, the quality of the people behind it, and is that where perhaps that extra bit of comfort you described a moment ago comes in?

A. Two elements why I would be; in January when I became aware of this, why it really didn't register on our radar screen, (1) is we have security of a property, (2) we were having a guarantee of a high net worth individual. The added comfort that you are saying would at that stage have become minimal because legally I look at what my legal once we give our credit approval or when the money has gone out, invariably when people indicate they are behind, they, like, encourage the credit approval, you ignore that, you focus on what is your legal counter party. So I was happy in the context of both the size of the deal, the security that was going to be enacted.

Q. Could I suggest to you, Mr. Cullen, from reading the documents that the position seems to me to be the reverse of what you have just described. At this time I don't say you were aware of it but at the time you had no proper security on the property. The guarantee was faltering and you were, in fact, looking to the individuals involved and not the legal position for comfort, as indeed I think most bankers would do?

A. Mr. Healy, just to reiterate, I am trying to give the

evidence as at that particular time. The later information that came on board would have worried me and our actions showed that it worried me but at that particular time, why, when we became aware that the funds had been disbursed without the approval, is that the credit approval given was based on having a fixed charge on the property and having a guarantee of a high net worth individual. It was my presumption at that stage that in accordance with every facility that we would ever have advanced, that those provisions would have been enacted. So I was speaking as of that time.

When I became aware later that there was defects in our position, I think what we did would show how concerned I was.

Q. I understand. You say "I do not recall being involved in any activity relating to the loan until its maturity date had expired without its having been repaid.

Mr. Tunney had resigned from the bank in April 2000 and the responsibility for following up on the loan became that of Mr. Eddie Byrne and his unit." You say "I was given to understand that the property purchased by the loan was in the course of being sold and I was not unduly concerned about it. At about this time, in say October, I became aware that the fixed security had not been obtained over the property and that no guarantee had actually been taken from Mr. Daly. I had the some continuing contact with Mr. Tunney in relation to the

affairs of the bank. In January 2001, since the loan was now several months outstanding due for repayment, I asked Mr. Tunney to arrange a meeting with Mr. Phelan so that I could personally express to Mr. Phelan our concern to obtain repayment. This meeting took place on the 19th January, 2001 and the Tribunal has been provided with a note of this. The thrust of what I said at the meeting was that I would like the loan regularised and if an extension was required, a formal application (which I would support) should be made for this." You wanted all documents to be completed by the 2nd February. You said that Nicola Chapman of the bank would forward details for outstanding issues.

Over the next few weeks you were kept informed of what progress was being made and of numerous attempts which had been made to contact Mr. Phelan. At a meeting on the 26th February, 2001 you were told that the loan had not been repaid and still had not been regularised. It seemed that no formal security had been taken over the property being purchased and you had no independent verification of the constitution of Catclause Limited.

You say that you contact Mr. Phelan on the 26th February and told him that you wanted to see him on his own to discuss the loan. You intended not to involve Mr. Michael Tunney in this meeting because you wished Mr. Phelan to recognise through what you said the

urgent need to resolve the situation. The meeting was fixed for the 28th February. On the 27th February, Mr. Byrne told you that his still-to-be-confirmed queries indicated that Catclause was in the course of being dissolved and that its directors did not include Mr. Phelan but were Mr. Michael Lowry and Ms. Lorraine Lowry. Until that time, you had not been aware of the actual or potential involvement of Mr. Lowry or Ms. Lowry. You met Mr. Phelan on the 28th February as agreed and you were accompanied by Mr. Tony Morland of the bank. Since you had not finally confirmed the position in relation to Catclause, you decided not to refer to the specific facts but you said to Mr. Phelan only that the information which you had had from him about the transaction was inconsistent with what you were now coming to understand was the situation. You say that you have provided the Tribunal with a copy of the note of this meeting prepared by Mr. Morland. And we'll come to that.

Directly after the meeting, you telephoned Mr. Tunney and you, along with Mr. Morland, met Mr. Tunney at the Radisson Hotel. You expressed your concern at the situation and asked him did he know who the directors of Catclause were. Mr. Tunney said that he believed Mr. Phelan to be a director. You say you encouraged Mr. Tunney to carry out appropriate searches himself but again, since you had not had final confirmation of

the position of Catclause, you did not say to
Mr. Tunney what you now understood to be the situation.

On Thursday, 1st March, you met Mr. Tunney again, to
the best of my recollection at the Berkley Court Hotel.
Your information in relation to Catclause had now been
confirmed so you told him that the directors of it
appeared to be Mr. Michael Lowry and Ms. Lorraine
Lowry. Mr. Tunney seemed shocked at this and said he
would contact Mr. Phelan to discuss the matter as a
matter of urgency. Mr. Phelan telephoned me on the 2nd
March and asked to see me. I met him in the Conrad and
again expressed the urgency of the situation from the
bank's point of view and the need to quickly establish
who was to be regarded as the beneficiary of this loan.
Mr. Phelan said that he was the beneficiary and I asked
that he confirm this to the bank immediately and that
he explain the nature of the transaction and the
involvement of the various people whose names had been
mentioned in connection with it. Mr. Phelan agreed to
this and said that he would forward a letter to the
bank by close of business that day. In my absence from
the office on the following week a letter was received
from Mr. Phelan and a copy of that has been provided to
the Tribunal.

Do you have a book of documents like the book of
documents I have?

A. I do, Mr. Healy.

Q. If you go to leaf 4 you will find copies of the documents that were provided by I am going to hand you unless you have notes written on your own set I am going to hand you a numbered set of those documents, which may make it easier for you in case we need to go back and forth through them.

(Documents handed to witness) I'll arrange for you to have a numbered set in the next few minutes, Sir. We can proceed for the moment on the basis of what's in leaf number 4.

If you go to page 1, numbered page 1, which is after the contents pages, the first document you see there is a fax, a copy of a fax from Mr. Michael Tunney to Mr. Ian Wohlman dated 22nd January, 1999 22nd December of 1999. Have you got that document?

A. I have.

Q. As you can see, it's addressed to Mr. Wohlman and "Enclosing a credit proposal for Catclause Limited signed off both by Michael Cullen and myself. Tony Morland has not signed off as the front page was not prepared at the time he reviewed the credit with me. His only issue was that more detail be obtained on the net worth of John Daly. This has since been obtained and Tony will be attaching his signature on his return to the office. I will call you later to discuss.

Best regards,

Michael Tunney."

If you just go to the next document, which I think went with that fax message. It looks like a minute of a credit committee meeting, is that right, dated the 19th December. Corporate Banking Catclause Limited, which is described as a special purpose company established specifically to acquire a property at Saint Columbas Church, Handforth, Manchester. The facility sought was £420,000 sterling. An arrangement fee of £2,500 had been fixed. The purpose of loan is referred to again. The repayment schedule provides for repayment in full by the 31st July, 2000. So what was envisaged was a purchase by Catclause, holding the property for a short while and then resale, presumably at a profit, doesn't that seem clear?

A. That was as the transaction was outlined.

Q. And the security was described as a first legal mortgage over the property and an unconditional guarantee of John Daly for all principal and interest outstanding. At the bottom it's signed by Michael Cullen. That's your signature, I take it?

A. Yes.

Q. You recognise Mr. Tunney's signature and it doesn't contain Mr. Morland's signature.

Now, can you confirm for me what documents what

other documents, if any, went with that credit

committee memorandum to Mr. Wohlman under cover of the fax of the 22nd December of 1999?

A. Mr. Healy, I can't, because that was faxed from Michael. I presume they were the only two documents, the cover sheet and the synopsis were the only two, but the fax went from Michael Tunney and Michael was dealing with Ian.

Q. It's just that he refers to he says Mr. Morland's only issue was that more detail to be obtained on the net worth statement of John Daly. "That has since been obtained and Tony will be attaching his signature on return the office. The reason I mention that is the following documents refer to Mr. Daly and suggest that he is a person of sufficient net worth to provide the guarantee.² did you notice that?

A. Sorry?

Q. Did you notice those documents appear to be dated prior to the 19th December?

A. They are dated, but it looks as if they are received in the bank on the 22nd December. When were they received?

Q. the bank have indicated to the Tribunal, Mr. Cullen, that the bank believes that these documents would have gone with the loan application or with the credit committee minute?

A. Mr. Healy, I just can't be I just can't confirm that

because I didn't send the fax but that information would have been required by us in the bank, whether it was sent to London or not, it's not unusual for it not to be sent and equally it can be sent. But as a matter of course we would have had to have got it within the bank.

Q. Well, maybe we'll just quickly go through that information on the assumption for the moment that it did go to London, because it seems from some other documents which I will refer to, that it did. The next document on page 3, is from O'Leary Lehane & Company, Accountants, in Cork. It says "To whom it may concern, re John Daly and from Mr. Daly's accountants and tax advisers there is confirmation that he has been successfully involved in property and that he has a substantial net and that he has property interests throughout Ireland and has a minimum net asset value of in or about a $\frac{1}{2}$ million.

The next document is again a letter from Mr. Daly's accountants and says "We act as accountant and auditors for the above-named and confirm that Mr. Daly has substantial capital and assets available and would have no difficulty in supporting the proposed property venture comprising a 1.66 acre development site at Saint Columbas Church, Handforth, Manchester."

The next document is a letter from the Bank of Ireland,

Cork City Business Centre, 32 South Mall, Cork and indicates with respect to Mr. John Daly as follows: "I understand from discussions with Mr. Daly that he is in the process of purchasing property in the UK for circa $\text{€}17,000$ sterling.

I am familiar with Mr. Daly's overall financial position and, in my opinion, he would have no difficulty in obtaining finance for the proposed property purchase as noted above.

I trust the above is in order and if you have any queries please do not hesitate to contact the undersigned."

I think that may be the document the Sole Member was referring to -

CHAIRMAN: - I was referring to, taken in isolation.

Q. MR. HEALY: Do you see where that suggests that Mr. Daly himself was in the process of acquiring a property in the UK for about $\text{€}120,000$ or $\text{€}20,000$.

A. This is the letter from Bank of Ireland?

Q. Yes?

A. Yes.

Q. Do you recall reading that document at the time or at any time?

A. I don't recall well obviously I have read it in the last number of months I don't remember it at the

time. The one I do remember, which I had been given sight of at the time, that the net assets were 5 million.

Q. You are aware that these documents appear to have gone to Mr. Wohlman at some point in the course of the

A. in the course of the discussions, Mr. Wohlman would have been made aware of the contents of the information here.

Q. I think he went further than that. From the information made available to the Tribunal, he seems to have got these documents?

A. You see, I just you know, if that is what you are saying, then I take it that that's true and it wouldn't surprise me at all.

Q. And that document does, on its face, appear to suggest an involvement by Mr. Daly in the transaction, which wouldn't be surprising in view of the fact that he was prepared to go guarantor for it.

A. Absolutely not.

Q. The next document is a letter of the 3rd December, I think, of 1999, from a company known as I think PCL Projects Limited, or ECL Projects Limited, from John Easton, Managing Director, and it refers to I won't go into the details of it refers to the proposal and how the purchasers of the property intended to add value to it before selling it. Do you agree with me, Mr. Cullen that, this document doesn't appear, on the

face of it at least, to be addressed to anyone in

particular?

A. Yes.

Q. The next document is the cover page of the memorandum

and articles of association of Catclause giving the

date of incorporation of the company. Now, if I could

go back to the first of these documents again. The fax

covering sheet from Mr. Tunney is dated 22nd December

and the credit committee meeting, the next document, is

dated 19th December. Now, I understand that the 19th

December is a Sunday?

A. Yes.

Q. Can you give me any assistance as to why the credit

committee of a bank would be meeting on a Sunday?

A. Well, you can take it, to be absolutely sure, it didn't

meet on the 19th. I think the it's possible that

it was, somebody typed it up on the 19th, but it didn't

meet on the 19th. We met, I couldn't be sure whether

it was on the Friday or on the Monday that I put my

signature to it, I should have formally dated the

signature, but it didn't meet on the Sunday.

Q. If we go to the front page of the facsimile sheet,

there is handwriting dated, it appears to be dated 23rd

December, 1999. I gather that's Mr. Wohlman's

handwriting, is that right?

A. Yes.

Q. And perhaps you can correct me if I am wrong, but the

impression I have from this handwriting and the content of it is that Mr. Wohlman is not very happy with this transaction as outlined in the credit committee minute?

A. I think that's a fair reading of what Ian has written.

Q. Firstly he says "No way". Then he is looking for better terms. And he seems to have some other notes which appear to relate to some information he was getting, is that right?

A. Yes.

Q. "Not a client at present six months excellent reputation" seems to be a reference that appears to be indicate that he was having a conversation with somebody, perhaps on the phone, during which he was getting some information about the transaction?

A. Yes.

Q. If you then go to page 10 you will see a fax message to Gandon Capital Markets for the attention of Michael Tunney from Mr. Wohlman and this appears to relate to the transaction and his view of the transaction. He says "Further to our conversation, I have spoken to Alan Tapnack and confirmed the following:

This is a transaction that we would not entertain unless the client was an existing customer well-known to us and had previous track record with us in this type of transaction.

Even then, at 100% finance, we would expect a minimum

fee and 10% of the uplift in value on any planning gain.

We would not approve the deal as presented and ask that tangible security, such as a charge over some of his investment portfolio, be obtained for at least 50% of the value of the loan, to support the client's guarantee.

We would also require a 1% fee for the six months with a view to renegotiating this had the property not been disposed of in that time.

I have left a message on your voicemail to this effect."

Now, these views of Mr. Wohlman, of course, were of little or no value at this point in terms of changing the condition under which the loan had been granted because the money had already been paid out, isn't that right?

A. Yes.

Q. The next document is another copy, simply a fax confirmation of that document on page 11. If you go on to page 12 you will see the facility letter. Now, the facility letter is dated 20th December, which was presumably a Monday, and it's addressed to The Directors, Catclause Limited, care of John Daly, Courthouse Chambers, 27/29 Washington Street, Cork.

This is the facility letter to Catclause, the borrower, and yet it's being addressed to the guarantor at his offices in Cork, isn't that right?

A. Yes.

Q. And what does that suggest to you?

A. That the well, it would suggest that both Catclause and the guarantor had an interest in the transaction.

Q. If you go to page 18, the second last page of the facility letter, it provides that "Notices in connection with the transaction were to be sent to the borrower by letter addressed to Mr. John Daly, Courthouse Chambers, 27/29 Washington Street, Cork."

Which would again suggest that Mr. Daly had an involvement in the transaction above and beyond merely providing a guarantee?

A. Not necessarily, in the sense that if I am a guarantor of a loan facility and I am on hook, I would want to know every piece of information from a lending institution in respect of that transaction. So, being the guarantor, I would want to know what was what notices were coming from the bank, what ^ was demands, payments were up to date, so it wouldn't surprise me. What surprises me, on reflection, is that to John Daly and Catclause, the directors of Catclause, the notes should go to.

Q. Oh, I quite understand and I agree with you that any guarantor will want to know how the borrower is doing

but these are notices to the borrower which are to be addressed to Mr. Daly, isn't that right?

A. Yeah.

Q. And to go back to my question then, would that again suggest an involvement by Mr. Daly over and above a role merely as a borrower?

A. Sorry, I misunderstood you. In terms of an interest in the transaction, yes, it would.

Q. Now, the next the last page of that document contains the signature of Mr. Tunney and then an acceptance and signature on behalf of Catclause and this is the signature of Mr. Aidan Phelan.

The next document at page 20 purports to contain a resolution of Catclause and I think that would have been a required as part of the terms under which the loan was granted whereby the company accepts the facility letter dated 20th December of 1999. Do you see that at page 20?

A. I do.

Q. And the directors of the company as per that document are Mr. Aidan Phelan, who is described as the Chairman, and Ms. Helen Malone, who is described the Secretary, isn't that right?

A. Yes.

Q. Now, if I could just ask you just one thing about this documentation. You will note that the letter is dated

20th December, which was, as we have agreed, the Monday, and the resolutions or the resolution is also dated 20th December and the signature is dated 20th December. Have you any comment on that, having regard to the fact that the document appears to have been sent to Cork on the 20th December?

A. The comment I would make on it is that the document probably was couriered over in respect it was addressed to Mr. Daly in terms of, in terms of the address, but it was actually couriered over to Aidan Phelan's offices because while the notices are to go and the address is there, the actual borrower at that stage was intended to be Catclause. So therefore the requirement was the resolution of Catclause. And secondly, the guarantee would have been coming from Cork, so that's what I suspect happened.

Q. I see. The next document at page 21 is a formal letter of application for the opening of the account by Catclause, again dated 20th December, signed by Ms. Helen Malone. On page 22, the specimen signatures furnished to the bank are those of Mr. Aidan Phelan and Ms. Helen Malone, I think suggesting their role as the principal individuals involved in the transaction, would that be right?

A. Well, as the principal individuals involved in Catclause.

Q. Yes. But as the people behind it in the sense of who

the bank were looking to, what flesh and blood the bank were looking to repay the money?

A. Yes.

Q. The next document is a letter from Mr. Christopher Vaughan, a solicitor practicing in Northampton, addressed to Mr. Michael Tunney, again dated 20th December, and refers to the purchase in the following terms: "Dear Mr. Tunney, I refer to our telephone conversation of Friday, 17th December, 1999 when we discussed this matter.

I confirm that I act on behalf of Catclause Limited, who have exchanged contracts to purchase this site, which is registered with absolute title number GM 759030.

You confirm to me that the bank would be funding this purchase and would be sending me $\frac{1}{2}$ 420,000, being the balance of the purchase price required. I think you may have a copy of my letter of the 14th December to AP Consulting but if not my bank details are" and Mr. Vaughan gives his bank details.

"I confirm that on completion Catclause Limited will have a good and marketable title to the property and I will deal with the stamping and registration. I am not sure if the bank requires to register a charge against the property. If so, please send the completed charge form to me and I will arrange for it to be filed both

at Companies House and registered simultaneously with the transfer.

If there is any further information that you require, please do not hesitate to contact me."

And the letter is copied to Ms. Helen Malone, AP Consulting. I think AP Consulting is a reference to Mr. Aidan Phelan's firm, is that right?

A. Yes.

Q. From this document it would appear that the transaction was approved by Mr. Tunney over the phone on the 17th December of 1999 and he appears to have given some commitment to provide money at that stage, is that right, according to the third paragraph of Mr. Vaughan's letter?

A. I wouldn't necessarily read it that that is you could say that solicitors have a habit, if I dare say, at times, of reading things into conversations so it could have been that we had intended to finance it and we are now being put, 'Listen, we want the money', putting words in your mouth. I think that question would be better asked of Michael.

Q. Well, I accept that but doesn't it seem clear if you look from the dating, the letter is sent on the Monday the 20th, it refers to a conversation the previous Friday and we know that, in fact, the whole thing was approved either on the Friday or on the Monday?

A. Yeah, it's very clear that we are very keen on pursuing this transaction.

Q. Well if, as you said yourself a moment ago, the credit committee meeting took place either on the Friday or on the Monday, and that's consistent with what Mr. Vaughan was saying, that he was given some form of commitment very early on that the money would be provided?

A. Yes.

Q. If we go on then to page 26, there is an internal bank document described as a 'drawdown and cash transfer application' dated 21st December of 1999, which was the Tuesday. Perhaps you'd explain what this document was intended to - or what purpose this document was intended - to serve?

A. This document would be intended to serve as authorisation to pay away the funds involved. So it is an operational document and the various signatories there give the authority to actually pay away the funds.

Q. It refers to the amount of money, i.e. £420,000. Underneath that then there is a checklist. Could you perhaps go through the checklist for me and tell me what comments you have on the negatives or affirmatives in the second column?

A. In terms of, this would be a standard control procedure to see that before money is disbursed that one had gone through the various things outstanding, either for

money-laundering or security purposes or for good order so facility letter received and accepted.

Q. That's true, we have that.

A. Well the 'Y' implies that the person who was making decisions on the operation side had sight of that. The memorandum of articles and certificate of incorporation is the money laundering requirement as well as a loan facility requirement. The 'Y' there, the security received and in order, there is nothing in that column that is odd and there is no comment. If I could cover the others: The authorisation to open account, again that, we have seen, was provided, the Y. The board resolution received and in order, the Y and the authorisation to make payment looks to the signatories from outside the back office to meet the payment.

Q. Could you come back to the third item, the fact that there is no comment at all in relation to the question of security. I am not a solicitor but in the ordinary way when solicitors act in matters like this for their clients, don't they usually undertake to hold the title deeds to the property they are acquiring to the order of the bank and to apply any funds obtained on the sale of the property toward the discharge of any bank indebtedness, isn't that fairly standard?

A. That would be very standard or we, in respect of other security, we would have a solicitor's undertaking to complete the security required.

Q. How unusual would it be to proceed with a transaction without even such an undertaking ^ from a solicitor?

A. It would be unusual, highly unusual.

Q. I suppose even if the bank were prepared to proceed with a transaction in the absence of any such undertaking or other indication from a solicitor, would there not be a comment explaining the absence of a security?

A. There would be.

Q. Does that indicate a degree of haste or urgency in processing this transaction?

A. Yes.

Q. The next document, on page 27, I think we needn't concern ourselves with, is an internal bank document.

Likewise, page 28.

On Page 29 then we come to a copy of the guarantee.

Can you just clarify one aspect of this guarantee for me, Mr. Cullen? If you look on the first page of the guarantee the word 'Catclause' seems to have been crossed out or there is a line drawn through it. Can you offer any explanation for that? I don't understand it?

A. None whatsoever.

Q. It may signify nothing whatever. If you go to page 30, you see at the bottom of that page, there is go to

page 30 you see the name "John Daly" and again on page 31. Just to clarify one matter in relation to the provenance of these documents, or this particular document, the Tribunal has a list of documents providing by Investec, one of which is described as a guarantee signed by John Daly, dated 1999 and not witnessed. Do you know if that document was in the custody of Investec or whether it came to you from somebody else?

A. I can't confirm that it was in our custody.

Q. The next document is a draft guarantee, and if you go to page 34 there is an indication as to where that document was intended to be signed by Mr. Daly and witnessed, isn't that right?

A. Yes.

Q. Of course, Mr. Daly's first guarantee was not witnessed, nor was it sealed, and his second guarantee or the second guarantee which was presumably sent to him, was neither signed nor witnessed, isn't that right?

A. Yes.

Q. And, in fact, Mr. Daly did not provide any guarantee to the bank?

A. That is right.

Q. Do you recall, or am I right in thinking that you did not become aware of that until very late in the day?

A. Yes.

Q. Can you offer any explanation as to why the bank wouldn't have pursued the failure of Mr. Daly to provide a guarantee for a transaction like this, having regard to what appeared to be his involvement in the transaction?

A. No, sorry, explanations, but none that, if we weren't pursuing the guarantee under the credit, we should have been looking for additional security.

Q. I think we can pass on over most of the next documents which are merely copies of the memorandum and articles of association of Catclause Limited.

Then at Page 51 we come to some documentation which will of more relevance in a moment but it might be no harm simply to refer to it so that we can understand the dates at this point. Page 51 you have a Companies Office search against Catclause in the English Companies Office, is that right?

A. Yes.

Q. Now, as I understand it, the bank did not acquire this, the results of this search, the hard text result of this search, until February of 2001, is that right?

A. Yes.

Q. 27th February of 2001?

A. We were made aware of it on the 27th February.

Q. And you got it on the 28th?

A. The 28th.

Q. And it shows that the Secretary of the company is described as Michael Lowry, appointed on the 1st June of 1999. The directors are Lorraine Lowry and Michael Lowry, all appointed again on the 1st June of 1999.

If we go then to page 60, which is another document provided as a result or obtained as a result of a search carried out in the Companies Office in England and this document indicates that a notice was served by the Registrar of companies on the 14th November, 2000 that Catclause would be struck off the register at the expiration of three months from that date and that the company would then be dissolved. And I think we know from other material that that was on foot of an application made by accountants acting for the company, is that right?

A. Yes.

Q. And if I could just go back one or two pages for a moment, to page 57, just to refer to one or two aspects of the details of the company. The date of incorporation is the 29th April and the registered office is at Old Church Chambers, Sandhill Road, Northampton, Northamptonshire. That is, in fact, the offices of Mr. Christopher Vaughan, Solicitor, isn't that right?

A. Yes, I believe so.

Q. If I could now go to page 62, and a number of documents which came into existence or were generated in the

context of the bank seeking to regularise this transaction. This is a fax of the 16th August, 2000 addressed to Aidan Phelan from a Georgina Keane.

"Dear Aidan, re Catclause.

Further to your meeting with Michael Tunney regarding the above account we advise that the details on this account are as follows:" Then she sets out the amount of the loan, the interest applied and the total amount repayable as of that date was €444,377.59 and she sought a cheque in settlement. This was well after, I think, the this was a month or two after the bank expected the loan to have been repaid and so the bank's own procedures were coming into play with a view to ensuring that this loan was not allowed to lie fallow on its books?

A. I think the facility was to the 31st July. So this is dated 16th August, so it's two weeks after, but yes, the bank's overdue facilities were coming into play.

Q. You will notice that in that letter Ms. Keane refers to a meeting with Michael Tunney. Was Mr. Tunney at that stage still an executive of the bank?

A. No.

Q. And how would he have been involved in representing the bank's interests in relation to an outstanding loan if he was no longer an executive?

A. He is no longer an executive but Michael has an ongoing

one of our sister companies, Gandon Capital Markets, Michael is a director and has, you know, has been and continues to be a director and assist us from time to time in certain transactions. Because he was directly involved in this facility and the interregnum, it was my Michael's Michael was assisting and the first port of call would be to ask Michael to deal directly with Mr. Phelan.

Q. Was there some apprehension concerning the loan at this stage, that you would have taken this step of bringing Mr. Michael of involving Mr. Michael Tunney?

A. None.

Q. Would Mr. Tunney have dealt with other loans that he had processed for the bank in his role as an executive even though he had, by this point, ceased to be an executive?

A. There would be one or two cases where the relationship was more direct.

Q. And it was Mr. Tunney's relation with Mr. Phelan which was relevant at this point?

A. Yes.

Q. If you pass on to page 64, a memorandum from Mr. Alan Byrne to Mr. Tony Morland with regard to Catclaus and he says, "Paul, no update, I am out next week so can you please put on agenda for credit on Monday two issues.

1. Settlement of facility.

2. GK to locate files." GK is presumably a reference to Georgina Keane, is that right?

A. Yes.

Q. One issue, the first issue there is an obvious one, the settlement of the facility. It had matured and you were looking for your money. What does the reference to the need to locate the files mean?

A. The when the facility became overdue and we became aware of it, we went to look for what we would call 'the original credit file'. We never located we didn't we weren't able to locate the credit file so what we did was build up what we thought was in the original credit file. But we have never located the original credit file.

Q. And the information that, in fact, you have provided to the Tribunal is based on cobbling documents together from various sources, again in the absence of original credit file?

A. Yes, and we believe it to be 100% complete but we, because there was an original credit file which we believe we have verified was established and opened, we just don't have it.

Q. Did you mislay any other files around this time?

A. From time to time there are files but you are talking that go missing and are found so you'd be talking about in .001% of files.

Q. Was there any particular concern that this file had

been mislaid?

A. Concern might be pushing it a little bit too far, but it was unusual that the file that a file was missing. It is always unusual when a file is missing and then that it was relating to this facility.

Q. can I just, for my own point of view, clarify one matter: At this point, on the 18th August, 2000, did the executives of the bank have the information, have the file to enable them to realise that the guarantee had not been put in place and that there was no security?

A. They would have been able to establish that but I don't think anyone was trying to establish that. We were expecting repayment.

Q. I see. If you go onto the next document, page 65. This is again from Georgina Keane to Eddie Byrne, to you, Michael Cullen, to Tony Morland, Alan Byrne and Paul Brennan. Again the subject is Catclause. "I spoke to Aidan Phelan today regarding Catclause. The position is that an offer has been accepted on the site purchased with this facility for 1.1 million. The lawyers for the borrower have confirmed in writing that they are holding the title deeds to our order. I have asked Aidan to have a copy of this undertaking faxed to me. There is a meeting on Wednesday, 1st November next, with lawyers for both sides to finalise legal documentation and it is hoped to close this transaction

within the next week or two, at which time our facility would be repaid in full. I will follow up on Thursday after the meeting."

That was dated 24th October and as of that time, do you know whether the file had been located?

A. The file has never been located.

Q. Sorry, I beg your pardon do you know whether the file had been reconstructed?

A. I would have suspected at that stage it was.

Q. The next document is a letter from Mr. Christopher Vaughan, the solicitor for Mr. Phelan, addressed to Georgina Keane and appears to be relate to the issues mentioned in the memorandum. It says "Aidan Phelan has asked me to write to you as to the property known as Saint Columbas Church.

The property is registered in Her Majesty's Land Registry.

No charges are registered against the property but I write to confirm that I am holding the land certificates strictly to the order of Investec Bank and that any monies received following the sale of this property will be sent to Investec Bank after the deductions of Solicitors and Agents fees only, relating to the sale.

The current situation is that a prospective purchaser

has been found for the property and the contract documentation has been sent to their solicitors.

So that matters can be progressed, a meeting is being held with the purchaser's solicitors next Wednesday, 1st November, 2000 to finalise the contractual situation.

If there is any further information you require, please do not hesitate to contact me."

This is the type of letter you'd expect to get soon after the facility was first granted, isn't that right?

A. Yes.

Q. Now, I am passing over the other documents. It may be necessary in the course of evidence of other witnesses to refer to them unless you want to say anything in particular in relation to them? They merely deal with some of the contacts Ms. Keane had with Aidan Phelan and others in connection with what they hoped was going to be the resolution of the issues that were arising on this facility, isn't that right?

A. Yes, the only comment I make, they mostly relate that they were expecting the transaction, the property to be sold and ourselves to be repaid for a good period of time.

Q. In any case, we now know that that did not happen. It didn't happen in October, November or December and if we could go up to page 72 which brings us up to January

of 2001 and this is a memorandum or a note from Eddie

Byrne to Nicola Chapman and the subject is FW

Catclause. Do you know what FW means?

A. Yes, it's forwarding my E mail to Eddie to Nicola.

Q. That's why the next item is "Original message" which is your reference to a meeting you had with Aidan Phelan and Michael Tunney, isn't that right?

A. Yes.

Q. This is from you to Tony Morland and Eddie Byrne dated 29th January, 2001. You say "I met with Aidan and Michael re the above case and expressed the bank's concern on the lack of documentation which has been forwarded. Also on the credit issue, I indicated that this would have to be formalised by a new facility letter.

Agreement was reached on the following:

1. A full list of documentation which is outstanding should be forwarded to Michael Tunney on Monday and he and Aidan Phelan will ensure completion by 2nd February.

2. A new facility letter to be put in place. Aidan Phelan asked that interest be rolled up until the 30th June and thereafter, if the property is not sold, then interest will be payable and a repayment schedule can be negotiated. This presumably will require credit approval but before submitting proposal, Aidan is to

revert with details of borrower etc. as required in 1

above."

Now, again by this time Michael Tunney was, as we said

a moment ago, no longer an executive of the company,

but nevertheless was still fully involved in

endeavouring to regularise this transaction?

A. Fully involved. We had asked Michael to help in

resolving this position and Michael was giving his

help. The nature of this meeting was that we decided

that maybe the best approach was the two of us to do it

and, in other words, to hand over, to begin the hand

over to regularise the situation, that the bank would

take the responsibility in following up directly with

Aidan Phelan.

Q. If you look at the last sentence of the second numbered

paragraph of your note you say "This presumably will

require credit approval. But before submitting

proposals, Aidan is to revert with details of borrower

etc." What did you intend to convey by reference to the

need to get details of the borrower?

A. At that stage, as I have indicated, I think other

credit file had been missing so what we had put

together were copies in respect of everything and now

the intention of 1 is really to get everything or

originals back on board and establish that we all knew

what we were dealing with. I don't think there is any

undertone in terms of the word 'borrower' on this particular note.

Q. I see. If you could go to page number 73. This is a memorandum from Eddie Byrne to Nicola Chapman forwarding again another message, this time from Tania Wilson to Eddie Byrne, dated 23rd January, 2001, in which Tania Wilson said "I spoke with Christopher Vaughan this morning re the market report he is expecting from Chestertons." That's an English firm of estate agents, is that right?

A. Yes.

Q. "He has raised a query regarding the planning permission and is awaiting a response from Chestertons. He will forward the marketing response to you in due course. (I have diarised to follow-up in ten days).

In the meantime could you please ascertain the owner of the property,(i.e. is it in the name of Catclause) and find out whose name the new facility will be in.

Please note that to perfect this security, there will be legal fees and stamp duty involved."

Now, that document or that memorandum, although originally created on the 23rd, was not forwarded to Nicola Chapman until the 29th and the reason I asked you what you meant by the reference in the previous document to 'obtaining further details of the borrower' is that in this document you see some concern or some

queries being raised concerning the ownership of the property. And I wonder are they related?

A. They weren't related at the time.

Q. But certainly by the time that Tania Wilson was writing to Eddie Byrne she wished to ascertain whether the property was in the name of Catclause and she must have had some query or concern regarding that?

A. Yes.

Q. If you go to the next document, which is again dated the 29th, from Eddie Byrne to Nicola Chapman, and it encloses two earlier memoranda, one from, I think, Eddie Byrne to Tony Morland and Tania Wilson with a copy to you and another from Tony Morland to Eddie Byrne, both of which relate to the same or related issues.

If we take the one of the 14th December first. Eddie Byrne is saying to Tony Morland and Tania Wilson. "I spoke to Christopher Vaughan, the solicitor acting on behalf of Aidan Phelan in relation to the above property. He had a meeting on November 15th with a prospective purchaser of the property but the deal fell through. He has subsequently been instructed, (by whom exactly I am not sure, either AP or DOB) to put the property on the market through Chestertons in Manchester, a guy called John Norris. CV will call me in the next few days with an update of the marketing on

the property. Following the update I suggest we talk to AP about regularizing the situation with at least a facility letter, bearing in mind that all parties involved in the deal have either left the bank or are no longer as close to us as once was the case."

You receive a copy of this message?

A. I did.

Q. And at this point Mr. Eddie Byrne wasn't sure whether Mr. Aidan Phelan, 'AP', or presumably Mr. Denis O'Brien, 'DOB', was giving instructions in relation to the transaction, is that right?

A. That's what's written down, yes.

Q. And do you see where in the last two paragraphs, or last two lines Mr. Byrne says "All parties involved in the deal have either left the bank or are no longer as close to us as once was the case." What does that mean?

A. Again, you know, what I think it means, and I think I am pretty confident in saying this, it means Georgina, I think, had left at this stage and she was pursuing it and in relation to "not close to the bank" that Michael was no longer an executive of the bank and he had left as well. So in terms of following up on the transaction, it was now Eddie's it was Eddie's responsibility but he had not originated the transaction and was, you know, therefore trying to get to grips with it.

Q. And had did the reference to parties include references to either Mr. Phelan or Mr. O'Brien? Were they still as close to the bank as they had always been by this time?

A. Yes.

Q. I see. At this stage I think Ms. Georgina Keane had, in fact, gone to work for Mr. Denis O'Brien, is that right?

A. One of his companies, yes.

Q. The next document, again a January 29th document from Eddie Byrne to Nicola Chapman, but forwarding an earlier message from Ian Wohlman to Eddie Byrne. The subject is Catclause. On the 21st December, 2000, Mr. Wohlman is saying "This deal was only done on the basis of assurances from Michael Tunney and Michael Cullen that the facility would be rebanked in short order. The deal was declined by Credit but was one of those that we had already committed." Then it says "Ian" which I think is just 'Ian Wohlman'.

Have you any comment to make on Mr. Wohlman's assertion that the deal was only done on the basis of assurances from Michael Tunney and Michael Cullen that the facility would be rebanked?

A. I think the word "rebanked" meant that the maturity date was the 31st July. It was a very short-dated facility and that therefore, if it went beyond its

maturity date, it would not be rolling over on our books after the 31st July. So 'rebanked', I think, is in that context.

Q. And do you recall any express discussion with anybody about rebanking the facility after the 31st July?

A. Not prior to the January meeting that I had with Michael Tunney and Aidan Phelan where, in a sense, it was either we would do the rebanking or I would look for a new facility letter or if we couldn't get it, it would go elsewhere.

Q. I understand that in your, I think, January meeting, you were going to revamp the security or the borrowing in one way or another, but was the rebanking part of the original part of what was originally envisaged way back in December of 1999?

A. If I could recall, the rebanking because the maturity date was really, was so short, the 31st July, it really wasn't, I don't think, practical to do it and just to remind - on the 31st March, Investec informally reviewed all the facilities and took the facility over at that date as well, so perhaps the word 'rebanking' did come into play, I just can't remember, but it wouldn't have been that practical.

Q. I am not trying to foment any discord between colleagues in the same bank but clearly isn't Mr. Wohlman saying here, 'Look, Michael Tully and Michael Cullen were the people who got this up and

running'. Is he right in the impression that he is giving here, that he understood from day one, that is from December of 1999, that the facility would be rebanked or taken over in some way by somebody else?

A. He may have Ian may have understood that. He was very let me be absolutely clear the problem was our problem. In other words, in the absence of Michael, the problem was my problem, that the loan was on the books and continued to be on the books. It was very clearly my problem that the loan remained on the books. I think and that getting it off the books, rebanking it, whatever, I think is seen in that context that approval we allowed it to continue on our books on the 31st March, I think that's Investec, but really on the basis then that it was going to be rebanked 31st July. In other words, when it matured, it was to be repaid.

Q. But does that mean therefore, that somebody must have said to you around the 31st July or of the 31st March, Michael Tunney or somebody else, 'Look, don't worry about this, it will be gone, it will be repaid or it will have been rebanked by the 31st July'?

A. They may have. I really can't because it well I was very aware, although it was a small transaction, of the maturity of the transaction, the high profile it had within the bank and that therefore, this was one case we would want, not to have any issue with at all

and therefore the 31st July was a real repayment date or a date which, I'd have to say, I was probably more bullish about, that it was a facility that in the cold light of day could be regularised and could be financed without the urgency that it started on in December, 1999.

Q. When you talk about the high profile that the loan had, even though it was not a significant loan in terms of size, are you referring to the fact that Mr. Phelan was behind it and Mr. O'Brien was aware of it?

A. No.

Q. What do you mean by the 'high profile'?

A. The high profile that in terms of this interregnum period with Investec, the first credit approval that we seem to be getting involved in was not done in what one would consider excellent banking practice.

Q. If you go to page 76, the next document is a letter of the 31st January, 2001 to Mr. Phelan. It's from Nicola Chapman but refers to recent discussions with you and goes on "The following documentation would be required for the borrower in order to regulate this account." And then it refers to the Memorandum and Articles of Association and the original of the last two annual accounts of Catclaus, Certificate of Incorporation, breakdown of company shareholding and list of shareholders and list of the names and addresses, their occupations and dates of birth of

shareholders holding more than 10% of shareholding of the company should also be obtained. A board resolution authorising acceptance of Facility which is included as part of the account-opening form.

List of Directors names, occupations, residential and business addresses and dates of birth.

Individual money-laundering requirements for two principal directors.

Account Opening Form for limited companies. If the borrowing is non-resident the following additional requirements will also be required. Appropriate legal opinions from lawyers practicing in the relevant country of incorporation as to the status and effect of the constitutive documents of the company (in particular the fact of incorporation).

Lastly, establishment of the identity of all authorised signatories confirmed by the company's overseas bankers.

I would be grateful if you could give this matter your immediate attention, as this matter has been outstanding for some time."

Now, was this a request to Mr. Phelan to get all of the documents together to enable, effectively, the bank to completely reconstitute the borrowing?

A. To reconstitute the credit file and to have originals where we had copies and to confirm, you know, to

confirm the facility.

Q. There is no reference here to a guarantee at this point?

A. No.

Q. Had the bank decided by this stage that they were not going to bother with a guarantee?

A. We had stopped pursuing it because it had fallen off the page in terms of something that we were pursuing.

Q. But did that mean that the bank now realised that Mr. Daly was no longer a party involved in this particular proposition in England?

A. Yes.

Q. And did that not give the bank any reason to be concerned that some impression had been created at an earlier stage in relation to this transaction which was not quite accurate, if I can put it as neutrally as that?

A. It was a small concern. The reason it was a small concern is because there seemed to be an absolute commitment on the part of Aidan Phelan to ensure that the bank was looked after. We had now established that the property was there. We had a market value, or an indicative market value, that the property was in excess of the price that was paid for it so our security seemed to be reasonable. It was backed by customers well-known to us. It wasn't an issue.

Q. Did you at that stage know why Mr. Daly hadn't been prepared to go ahead with the guarantee?

A. No.

Q. You never had an explanation as to why he wasn't prepared to go ahead?

A. No.

Q. To this day do you know why he didn't want to go ahead?

A. Well, I have read some documents that the Tribunal provided.

CHAIRMAN: It's a quarter to one, Mr. Healy. I think it's probably sensible that we adjourn now and we'll conclude your evidence at five past two in the afternoon. Thank you.

THE TRIBUNAL THEN ADJOURNED FOR LUNCH.

THE TRIBUNAL RESUMED AS FOLLOWS AT 2.05 P.M.:

MICHAEL CULLEN CONTINUED TO BE EXAMINED AS FOLLOWS BY MR. HEALY:

Q. Mr. Cullen, I think if you pass on now to page 86, which contains a memorandum from Ian Wohlman to sorry, from you can correct me if I am wrong, but it looks to be firstly a memorandum from Tony Morland to Ian Wohlman, "Subject MT outstanding amounts." Then underneath that there is the message begins off "Ian." It seems to refer to something else, is that right?

A. It is.

Q. And then it refers to Catclause?

A. Yes.

Q. Now, the subject matter is "MT outstanding amounts."

Is that a reference to Michael Tunney?

A. Yes.

Q. Is this a reference to Michael Tunney cases, or cases involving Michael Tunney?

A. I just unfortunately can't see I think is it

"Outstanding issues?"

Q. It says "Outstanding amounts."

A. "Outstanding amounts." So in relation to the first part, it's private, it's related to transactions that are not related to Catclause.

Q. I understand that but with a memorandum dealing with a number of matters where there were outstanding amounts due to the bank, where there were debts outstanding to the bank and where Michael Tunney appears to have been involved, is that what he is referring to?

A. The blank portion of it?

Q. No, the whole document. The whole document includes the blank part and the Catclause part?

A. The blank part refers to 'facilities'

Q. I am really not concerned about the blank part except that it's presumably something that concerned Michael Tunney?

A. Absolutely.

Q. Catclause is another one of the items that concerned Michael Tunney?

A. Yes.

Q. And presumably, like the blank item, it concerned an outstanding amount?

A. Yes.

Q. In relation to Catclause, the current position as of February 22nd, 2001 is described as follows: "The funds were paid out in December, 1999 ĩ½420,000 sterling and a fee was charged of ĩ½2,500 sterling. No credit approval was ever received. No facility letter was ever signed and the security was never perfected.

When I spoke to Michael Tunney/Michael Cullen about this in January 2000, and they told me they had lined up alternative financing so this was a bridge as cash had to flow. I doubt whether ML was ever done either." What does ML refer to?

A. Money-laundering.

Q. "Money-laundering was ever done either. No interest has ever been received on this loan. The loan now stands at ĩ½461,693 sterling. Michael Cullen met with Aidan Phelan and Michael Tunney in the middle of last month. However, despite assurances from the individuals concerned, nothing has been done and Nicola has been following up with Aidan Phelan. We have received confirmation from the lawyers that they are holding the deeds to our order and that the property is

unencumbered. Tania has today asked Eversheds"

Eversheds were English solicitors, isn't that right?

A. yes.

Q. acting on your behalf? "Has today asked Eversheds to do a search on the property so we can confirm this and also to ascertain in whose name the property is actually registered." Now, does that seem to indicate that by that time, which was 2001, Mr. Morland was expressing some concern that the bank was owed nearly half a million pounds and did not know who owned the property which was being used as a security for that borrowing, is that right?

A. Yes.

Q. When Mr. Morland refers to having spoken to Michael Tunney and you in January of 2000 and "Told me they had lined up alternative financing" could that be the reference you made a moment ago I think it was an hour ago, obviously but in your last bit of evidence where you referred to rebanking?

A. Yes.

Q. Could that be the reference to rebanking?

A. It could be. I just can't remember.

Q. Now, this was in January 2000, just shortly after the loan had been taken out?

A. Yes.

Q. And you were talking about alternative financing. How did that issue of alternative financing arise, can you

recall, in January of 2000?

A. If I could bring you back to January 2000. I met with Ian Wohlman in London and he made me aware that from Investec's viewpoint, they were unhappy with the situation. Taking that on board, I would have come home and obviously Tony's recollection is that I spoke to him and we talked about something in relation to that particular deal. I personally can't remember that conversation of being rebanking. The rebanking that I can specifically remember was that in terms of the March date when Investec reconfirmed taking over the loan, that it was maturing in July and that this was a facility that was going to mature in July.

Q. But doesn't this memorandum suggest that Mr. Wohlman or Mr. Morland was unhappy with this facility from the very beginning almost?

A. I'd ask, you know, you to ask Tony. I don't think it does because I wasn't at the application stage, I didn't speak to Mr. Morland.

Q. We know that at the application stage the money was paid out or disbursed fairly quickly. It seems from the documentation we have looked at that this was because of a commitment had been given in relation to it.

Certainly the first contact with the solicitor was on the 14th December, wasn't that right? The money was paid out, or at least the commitment was given on the 19th December, it actually left the bank the following

Monday on the 17th December, it left the bank the following Monday or was drawn down on the following Monday. We know that Mr. Wohlman, I think, expressed fairly negative views about the facility in his handwritten manuscript notes on the credit committee minutes and the related documentation, isn't that right?

A. Yes.

Q. Somebody must have spoken to you. Mr. Morland thinks he spoke to you and Michael Tunney in January 2000 and as a result of that conversation, he was under the impression that alternative financing was being put in place and that this money was not going to be left outstanding, where your bank was concerned, for very long more. So he was getting rid of this problem. This credit facility that he didn't really like or the bank didn't like, isn't that right? You are nodding?

A. Yes. I would say, just in comment, is the second part where I just want to know whether credit was ever received, "no facility letter was ever signed" that is inaccurate.

Q. A facility letter was signed?

A. Correct.

Q. We now know that the facility letter was signed by two people purporting to act as directors of a company of which they were not directors, isn't that right?

A. We didn't know that.

Q. I understand that, I understand you didn't know that.

You now know that?

A. Yes. And secondly in the money laundering situation, we had got the information. At this particular stage we were building up our we were building up our file and based on the e-mail, obviously Tony hadn't access to the full information that was available on the facility that was in the bank

Q. by this time, a year after the facility had been put in place, the original file was missing. You were trying to reconstitute the file and ultimately to reconstitute the borrowing. But by this point you were trying to reconstitute the file, get the information, is that right?

A. Yes, and get the loan repaid.

Q. Does it seem that or is it unusual that a year after a half a million pounds or so, i.e. £450,000 or so had been loaned by the bank, the bank still didn't know who owned the property that was being used as security or who owned the company that was doing the borrowing?

A. Highly unusual.

Q. This whole file and this whole transaction was carried through in I'll use a non-extreme word at least in a very untidy way, isn't that right?

A. Yes.

Q. Nobody in the bank would have been able to track this transaction and find out about it from a file because

there was no file in relation to it and the individuals involved didn't seem to have all of the relevant information, i.e., Mr. Tunney?

A. Yes.

Q. So the two sources that you might go to to get information, the file if the file wasn't there you'd go to the individuals didn't really have the relevant information the bank needed to progress matters?

A. Yes, and I suppose you know, remember we are here now, it's in February we are talking about, what was of more concern was that in rebuilding the file we were in contact with the solicitor who we had disbursed the funds to and the information that we were getting was economical and that was raising all our antennae because in the absence of information on a file, you go to the third parties. The third parties were economical with the information they were giving us and that was raising our antennae on this particular transaction. So it is, for those reasons, unusual that at this stage we haven't been able to establish beyond a shadow of a doubt what the exact legal who the exact legal counter party was.

Q. In the ordinary way in banking, as indeed in any other activity, you are going to have files that go missing. You are going to have files that are not perhaps as well put together as they should be, a transaction will

go sloppy, but nevertheless, as you say, you should usually be able to get information from an individual or from other documentation. But in this case, not only was the third party, i.e. the solicitor, being economical, you didn't have much information from within the bank from Mr. Tunney himself, did you?

A. We had information. Michael was in you know, we had information available to us. We had the facility letter and that. Michael had left the bank so it would not normally you don't normally go and seek all information for the person who had left. We were getting certainly all the assistance we could hope for from Michael in arranging the meeting with Aidan Phelan.

Q. Was it characteristic of the files of the bank that you had big gaps like this in them?

A. I'd like to think no.

Q. And far be it for me to suggest that was the case. Would I have the right impression if I were to suggest that a very, very casual attitude was adopted toward the paperwork in this transaction because of the fact that Mr. Phelan and Mr. O'Brien, big supporters, or at least big customers, of the bank, were involved in some way or another?

A. I'd have to answer no to that and give an explanation, Mr. Healy. Looking back, the reasoning because we have dealt in a number of transactions with customers,

very valuable customers and the documentation has been put in a place in an ordinary fashion for significant amounts of money. If I could just put you back in the circumstances of the transaction. It was a December transaction. It was a first transaction in a context of one of the first, it may not have been the first in the context of Investec and our approvals within Investec. It happened to overlap Michael resigning from well, going part-time. So it fell between a number of stools, both being from an institutional viewpoint in terms of we have GE Capital Woodchester Bank/Investec. It fell between an executive moving away from a full-time involvement to an ordinary, to another involvement, and through the Christmas period. So the circumstances combined on this particular specific transaction could, in my mind, have happened for a transaction in the exact circumstances, independent of who the individuals were.

Q. Other transactions involving those individuals were accompanied by appropriate paperwork?

A. To my mind, we have no instance in terms of a transaction with either of those individuals or customers which happened this particular way because it would not have been our normal banking practice with any individual.

Q. I can understand that the reasons you mentioned a moment ago might affect or might have an impact on ^

putting a proper file together but one of the reasons you mentioned was the fact that this was the first or one of the very first, we'll call it, Investec propositions.

A. Yes.

Q. One of the first ones that involved the interregnum or the taking over of, by Investec, of the business of the bank. Wouldn't that seem to suggest to any ordinary person that you'd expect at that time paperwork would be put in place and that special attention would be paid to it, rather than the reverse?

A. You know, absolutely, that would be what one would have hoped would have happened but because, as I said, the period of time and then the part-time, moving from full-time to part-time, it wasn't one that we would consider the way we would have liked to have created an impression.

Q. Am I right in thinking that nowhere in the file does anyone suggest what you are now suggesting? And I accept, of course, you are endeavouring to explain something. But am I right in thinking that no one suggests anywhere in the file that things went wrong here because of pressure of time, Christmas, people leaving the bank?

A. There is nowhere in the file. I am merely giving an explanation to your question because we had a problem and which due regard, it's to solve the problem, not to

identify who was to blame for the problem.

Q. Well, we may have to come back to that in the context of some of the later meetings you had.

If you go on now to page 88 and 89. I think you referred a moment ago to the information you were getting or at least the absence of or incompleteness of the information you were getting from the solicitor.

This is a fax from your own solicitors addressed to Tania Wilson and it says, "I have carried out the search you requested and enclose a copy of the register. I did not know whose the charge that should probably be 'in whose name the charge' "should be registered." It goes on to say in manuscript "There are no adverse entries."

The next document is a printout of a Land Registry search and it refers to the property in question, I think, as "Greater Manchester/Stockport.

Title: Absolute.

Ownership: The proprietor is described as Christopher James Vaughan and Debora Patricia Vaughan of 23 Sandhill Road, St. James, Northampton, Northamptonshire, NN5 5LD. Christopher James Vaughan is, in fact, the solicitor that you had been in correspondence with, isn't that right, and Debora Patricia Vaughan was his partner, and also, I think, his wife?

A. He represented actually a little bit more in the sense that the funds were transferred to the client account of Christopher Vaughan and he also was the solicitor we were in correspondence with.

Q. And here you had the property, not registered in the name of Catclause, which I think is the point you were making a moment ago, but registered in the name of the solicitor himself?

A. Yes.

Q. And his wife. If you then go on to page 91 what you have is a letter from Tania Wilson to Mr. Vaughan of the 23rd February, 2001 in which she says "To assist with the perfection of our security I would ask you to forward to our solicitors the title deeds of the aforementioned property together with a copy of the trust deeds top held on solicitor's undertaking. The deeds should be forwarded without delay to the following address." And Eversheds is the address that's given. "Please also forward to me via fax or post the marketing report prepared by Chestertons as discussed. Thank you for your assistance."

Mr. Coughlan has just drawn something to my attention. I am not sure you can throw any light on it. A moment ago, referring to the Land Registry report at in the second section under 'ownership' the proprietor is described as Christopher James Vaughan and Deborah

Patricia Vaughan of 23 Sandhill Road, St. James, Northampton, Northamptonshire NN5 5LD, which we both agreed was Mr. Christopher Vaughan's address, the solicitor. But, in fact, I gather from you that that is not, in fact, his practice address but rather his home address and that his practice address is on the same road, Sandhill Road, Northampton, NN5 5LH. Were you aware of that?

A. No.

Q. And I don't think it's alluded to by the English solicitors you retained to look into this matter either?

A. No one has made any reference to the differences in the address.

Q. I wasn't aware of it until now.

I want you to turn now to page 93 where Tania Wilson sends a memorandum updating Eddie Byrne and Tony Morland in relation to the position with the property and the question of the security. She says "To update you on the current position, Catclause Limited was intended to be the holding company for the property at Cheadle.

Aidan Phelan is behind the transaction. His solicitor is unsure if the company was ever registered. If it was registered, it has now been voluntarily dissolved/struck off. The title is registered in the

name of Aidan Phelan's solicitor, Christopher Vaughan, and wife, apparently as trustees for either Aidan Phelan or a related company. It was initially intended to be registered in the name of Catclause, according to Christopher Vaughan. We have requested that Christopher Vaughan forward the deeds, together with a copy of the trust deed to Eversheds. No charges are registered against the property. Eversheds have confirmed that it is not so unusual for a solicitor to be listed as the registered owner in his capacity as a trustee. More info once to hand. PS. Tell Nicola not to waste her time looking for money-laundering on Catclause as they no longer exist, if they ever did."

Now, by that stage it would seem that Tania Wilson, and this is clear from other documentation we have seen as well, was under the impression that Christopher Vaughan and his wife were indeed registered as owners but that they were holding the property for Aidan Phelan and that a trust deed had been executed to that effect, isn't that right?

A. Because let me just the first part of the point is Tania, I don't think, was a trustee for either Aidan Phelan or the related company.

Q. I understand that. But the impression she had at that stage, judging from the file, is that there was a trust deed in existence which would indicate who the Vaughans were holding the property for and that would be either

Mr. Phelan himself or some nominated company of his?

A. Yes.

Q. If you go to page 95 you will see a letter of the 27th February, 2001 from Mr. Vaughan to Eversheds solicitors in which he refers to some of these matters. He says "Dear Sirs, I enclose a copy letter received by me from Tania Wilson of Investec. I enclose a photocopy of the entry in the land certificate. You will see from the proprietorship registered that the property is held by myself and my wife as Trustees. I do not currently have the trust deed in my possession. Perhaps you could let me know what form of security Investec intend to take.

Obviously my wife and myself could not expose ourselves, as mere Trustees, to any personal liabilities under such legal charge, save for the payment of any net proceeds under a sale of the property.

I look forward to hearing from you."

Now, the next document at page 96 is a note of a meeting of the 28th February, 2001 at the offices of AP Consulting, that's Mr. Aidan Phelan's offices, isn't that right?

A. Yes.

Q. And this is the meeting you referred to in your

opening, in your statement in which I referred to at the opening of your evidence where you and Mr. Morland of the bank met with Mr. Phelan in his own offices?

A. Yes.

Q. Now, prior to this meeting, I think you had obtained some form of communication concerning the true ownership of, or shareholding in, Catclause, is that right?

A. Yes.

Q. You didn't at that stage have the hard text confirmation of what that information was, but the information was to the effect that Mr. Michael Lowry and Ms. Lorraine Lowry were the shareholders and directors of that company?

A. Yes.

Q. Your note says "Subject Catclause: Loan dated 21st December 2001. Present: Aidan Phelan, Michael Cullen and Tony Morland." Now, you mentioned a moment ago the difficulties the bank was having in getting information and the fact that the solicitor involved was being economical with information concerning this matter. At this point you were anxious, presumably, to try to clarify the matter with Aidan Phelan, who was being described effectively as the borrower by this time, isn't that right?

A. Yes.

Q. You say "The bank stated that the purpose of this meeting was a follow-up to the meeting in January between Aidan Phelan, Michael Cullen and Michael Tunney and that the documentation and the security for the loan were still in an unsatisfactory condition.

Aidan Phelan apologised for not attending to the bank's request to formalise its facility. However, stated that from a credit viewpoint, the bank had nothing to be unduly concerned with as this was a DOB" meaning a Denis O'Brien "transaction and he would ensure the bank was looked after. Aidan Phelan would do everything necessary to sort out the bank's documentation problems.

When asked why the transaction had not closed and the loan repaid, Aidan Phelan informed the bank that other business events had take precedence over this matter."

Then under the heading 'Security' "Aidan Phelan inquired as to whether the bank still required the guarantee of John Daly. The bank said it did not think so and asked how he had become involved in the transaction in the first instance. Aidan Phelan said they were only trying to help out Michael Tunney from a credit viewpoint to enable the transaction to be banked in the first instance.

On the property itself, the bank informed Aidan Phelan that it had been brought to their attention that the

property was registered to Christopher Vaughan, 'CVS' for short, the solicitor to Catclause, and his wife, and that the bank were finding it extremely difficult to extract information from CVS in relation to this deal. The bank also informed Aidan Phelan that they had requested Christopher Vaughan Solicitors, to forward the title deeds and copy of the trust deed to their lawyers in Cardiff. Aidan Phelan informed the bank that Christopher Vaughan solicitors had been instructed not to reveal any information relating to matters concerning Aidan Phelan or Denis O'Brien without instruction from the principals themselves. He acted for Denis O'Brien on property transactions in the UK such as the Doncaster Rovers transaction where confidentiality and privacy were required.

Aidan Phelan would instruct him to cooperate with the bank in this matter. When asked by the bank whether Aidan Phelan was prepared to disclose whom the other party to the trust deed was, Aidan Phelan declined to do so, stating he never lied to his bankers. He would get for the bank a copy of the trust deed by Friday 2nd March, 2001. The bank asked for a copy of the valuation marketing report that had been prepared on the property by Chestertons in the UK. Aidan Phelan informed the bank that he only had a poor quality faxed copy and would arrange for a better copy to be sent to

the bank. The bank informed AP that certain information had come to their attention that brought into question the validity of certain of the documentation held by the bank. Aidan Phelan promised to get a list of the directors and the particulars of them to the bank, although he did think that the company had since been dissolved.

The bank asked that Aidan Phelan prepare a statement for the bank relating to this transaction and how it had come about and what were the intentions of the owners of the property. Aidan Phelan promised to have all the required information to the bank by Friday 2nd March, 2001 as he was going to the Isle of Man and then to Canada at the end of the week. The bank at no time indicated to Aidan Phelan that they were aware of whom the registered directors of Catclause were as we had no confirmation as yet from Companies House in the UK."

Now, that meeting can't have provided you with any consolation where the provision of information by the people involved in this transaction was concerned, did it?

A. Sorry, Mr. Healy?

Q. That meeting couldn't have provided you with any consolation in terms of the type of information you were getting from the people involved in this transaction?

A. Well, it did really in terms of the purpose of the meeting and just if I could step back, so there is absolute clarity, this meeting was arranged on the 26th February before we got any information on the directors because we were very concerned, it had been brought to my attention that really little or no progress had been made in recovery or formalising the facility and therefore, we needed to talk directly to Aidan Phelan. So the comfort factor, in a sense, was the purpose of that meeting was to emphasise directly the seriousness of the situation, that it was very much on our radar screen, that it wasn't going to go away so in terms of the comfort factor we got from the meeting, we got the fact that we had conveyed the impression, which was our intention, that this was of serious concern from a credit viewpoint and that we were going to get answers and that we did leave the meeting thinking we would be getting answers.

In terms of the information given to us at the meeting, it added little or nothing.

Q. Before the meeting you didn't know before you set up the meeting, sorry you didn't know what Catclause was or who was involved in it, before you set up the meeting?

A. I presumed that when we set up the meeting that Catclause, the directors of Catclause were as originally told to us in December so we didn't know any

new information when we set up the meeting which I set up.

Q. And at the time that you set up the meeting one of your concerns was that the people involved in the transaction were being economical with information?

A. Yes.

Q. Now prior to going to the meeting, you learned for the first time that Catclause, that the directors of Catclause were Michael Lowry and Ms. Lorraine Lowry, I think his daughter?

A. Yes.

Q. So now you knew something fairly significant in terms of the original transaction envisaged in this case.

You knew that the original borrower in this case was envisaged as Mr. Michael Lowry and Ms. Lorraine Lowry?

A. I knew, or we had been told that there was a company called Catclause where the information we had been given was incorrect. What we now wanted to establish was the actual hundred percent truth and reality behind the transaction. We weren't going to we went into the meeting, we weren't going to jump to conclusions, we weren't going to run away with ourselves. We wanted it straight, to say that we had information that was inconsistent with what we had been told to date and therefore, we would like to know what is the exact situation. It wasn't for us to jump to any conclusion of whether originally Catclause or any

conclusion what we wanted to know, ^ give an opportunity to a very valuable customer to explain what the situation was to us.

Q. But at the meeting you were told that from a credit viewpoint the bank had nothing to be unduly concerned as this was a Denis O'Brien transaction. That's the first thing you were told at the meeting: 'do not worry about this, do not be unduly concerned, this is a Denis O'Brien transaction.' you were told that at the meeting?

A. Yes.

Q. At that time you knew, yet to be confirmed, but what you knew was correct, you knew that Catclaus was Michael Lowry?

A. Yes.

Q. Now, wasn't it, in fact, the potential connections between these names, Mr. Michael Lowry and Mr. Denis O'Brien, that prompted the bank to be concerned about this whole transaction?

A. Yes.

Q. And here you were for the first time you learnt of this, you learnt that Mr. O'Brien was definitely behind this transaction, you were not told he was aware of it, you were told he was behind it. You knew that Mr. Michael Lowry was involved and Mr. Phelan was not telling you about Mr. Lowry's involvement, even though I think it's fair to say you gave him a very fair

opportunity to tell you, isn't that right?

A. Yes.

Q. So what I am saying is that after this meeting you were in a situation where you had even more reason to be concerned because, not only were people being economical with information, but you now had information and you knew that other people were endeavouring to suggest to you that the transaction was being carried out in a way which was inconsistent with the information you had, isn't that right?

A. Yes.

Q. Now, one of the questions you asked was how had Mr. John Daly become involved in the transaction in the first instance? Do you recall that question being asked?

A. I recall, yes, yes.

Q. And according to your note, Mr. Phelan responded that they were only trying to help Michael Tunney out from a credit viewpoint to enable the transaction to be banked in the first place. What did you understand Mr. Phelan to mean by that?

A. Well, I understood him to mean that the transaction, if it was presented without a guarantee of a high net worth individual, irrespective of whether it was John Daly or somebody else, would not have got credit approval. So in order to get credit approval in terms of my own signature, or indeed Michael Tunney's

signature, it would need some a guarantee from some high net worth individual because it was a special purpose vehicle set up.

Q. Does it look as if what Mr. Phelan is saying that they, meaning himself and whoever else was involved, were simply trying to help Michael Tunney get the paperwork right so he could pay out the money?

A. You could put that interpretation but, you know, my own interpretation would be that 'paperwork' would be too light a word to use for it. We would have to have credibility behind the guarantee that it wouldn't be acceptable just to have a guarantee of a man of straw.

Q. When Mr. Phelan inquired of the bank whether the bank still required the guarantee of John Daly, the bank said it didn't think so.

A. Yes.

Q. So the bank weren't interested in Mr. Daly in the year 2001, isn't that right?

A. Well, yes, but the transaction, you must remember, Mr. Healy, had moved on.

Q. I know, but you still didn't have your money. Here was Mr. Phelan offering Mr. Daly as somebody who might become involved.

A. No, but two things particularly: One, clearly Mr. Phelan was assuming responsibility for the loan facility in his actions and secondly, through every piece of information that had been forwarded, though

not actually confirmed to us, the value of the property far exceeded the purchase price. So therefore, the security value that when we went into the transaction we would have seen as giving us not insignificant cover, based on the last valuation that we had been informed, there was a 1.1 million figure spoken of. So the security for the loan was there. So the guarantee had fallen off the page.

Q. At that point, did you know or did you say to Mr. Phelan that Mr. Daly had not signed his guarantee?

A. No.

Q. Did anyone not take up with Mr. Phelan at this stage the unsatisfactory situation where Mr. Daly had simply refused to sign it or neglected to sign the guarantee?

A. No.

Q. But Mr. Phelan was nevertheless endeavouring to suggest that Mr. Daly could still be brought into the transaction even at that stage?

A. Yes.

Q. If you go to the next paragraph of the memorandum where it stated that "AP informed the bank that CVS had been instructed not to reveal any information relating to matters concerning Aidan Phelan or Denis O'Brien without instruction from the principals themselves."

This was Mr. Phelan's explanation for the fact that you were not getting what you believed to be a full picture from Mr. Vaughan?

A. Yes.

Q. That there had been instructions to him not to reveal any information concerning Mr. Phelan or concerning Mr. Aidan Phelan or Mr. O'Brien?

A. Yes.

Q. "Mr. Phelan said he would instruct him" I think that means Mr. Vaughan "To cooperate with the bank in this matter. When asked by the bank whether Aidan Phelan was prepared to disclose whom the other party to the trust deed was, Aidan Phelan declined to do so, stating he never lied to his bankers."

Does that mean that the bank wanted to know who else was involved in this transaction and were not being told by Mr. Phelan?

A. The bank wanted to know who Christopher Vaughan was holding the property in trust for. We were finding it incredibly difficult to establish who the property was being held in trust for and we had sought a copy of the trust deed and we hadn't got it and that was that section.

Q. I don't understand the reference to the fact that Mr. Phelan was not prepared to disclose whom the other party to the trust deed was. He said he'd provide you with the trust deed but according to the note, he declined to tell you who the other party was. Can you understand that?

A. Understand we wanted the trust deed and we were looking for the trust deed.

Q. And he said he'd give you the trust deed, isn't that right?

A. Right.

Q. So he said 'I am going to give you the trust deed.' but somebody asked whether he was prepared to disclose whom the other party to the trust deed was and then you record him as having declined?

A. Yeah.

Q. Can you follow that?

A. Well, it struck us as very unusual.

Q. Were you trying to find out who else was involved in this transaction, whether named in a trust deed or whatever, apart from Mr. Aidan Phelan?

A. I wanted to know who was liable for my loan facility. Therefore the beneficiary of the property, in whatever shape or form, we wanted to establish, and therefore we wanted copies of the trust deed and before we'd get the trust deed, it would have been asked 'well, just as pure information, we are going to get the information, so could we not have that information now?' and

Q. you were told 'No'?

A. Mr. Phelan said he was sending us the trust deed.

Q. That meeting was on the 28th February. By letter of the 1st March in 2001 there were presumably 28 days in February is that right?

A. Yes.

Q. So the following day Mr. Christopher Vaughan sent a letter to Investec in Dublin for the attention of Mr. Tony Morland saying,

"Dear Mr. Morland,

I refer to the telephone conversation we had on the 28th February, 2001 as to the above property.

I subsequently had a telephone conversation with Aidan Phelan in regard to the same matter."

Then he goes into the history of the transaction and it would appear that his letter was prompted in some way by the conversation you had had with Mr. Phelan the day before, would that be right?

A. Yes.

Q. He says, "The history of this transaction was, I was instructed to act in respect of the acquisition of this property and a limited company called 'Catclause Limited' was set up as the vehicle to acquire the property.

There were various delays following the exchange of contracts on the 9th September, 1999 and actual completion on the 21st December 1999 - it should have taken place on the 30th November of 1999.

By that time, it had been decided that Catclause Limited was an appropriate vehicle to acquire the

property and I was instructed that the property should be held in the names of myself and my partner as bare Trustees for Aidan Phelan.

The advance of i;½420,000 from your predecessor's GE Capital Bank was Received Into My Solicitors Client Account by Bank transfer on the 21st December, 1999 and was immediately utilised to complete the purchase of the property.

Subsequently, following the registration of the property, the land certificate was held by me strictly to the order of your predecessor's GE Capital Bank and subsequently to yourselves.

I understand that the change of identity of the purchaser has caused compliance difficulties within the bank. Aidan Phelan has therefore instructed me to write to you to confirm that the property is to be held strictly to the order of Catclause Limited and that the property should be transferred into the name of Catclause Limited at the earliest possible moment.

Once this transfer has taken place it should regularise the position as far as the bank, as funder of the purchase of the property, is concerned. You asked me for details of Catclause Limited.

I have now had an opportunity to look at my files and I discover that all of the documentation I had relating

to this company have been passed to Aidan Phelan's English accountants. I am therefore unable to assist you on that particular point.

However, you may regard this letter as my irrevocable undertaking to hold the land certificate to the order of yourselves as funders. I confirm that my partner and myself are Trustees of the property for the benefit of Aidan Phelan and/or Catclause Limited and, when requested, will arrange for the transfer of the property into the name of Catclause Limited as registered proprietor. When we spoke on the telephone yesterday you mentioned the difficulty that the bank had in that the money had been sent to me to acquire the property in the name of Catclause Limited. Whilst I appreciate the bank's position, so far as I am aware the bank was fully aware of what was happening.

I did not have any written instructions whatsoever from the bank to the effect that the property had to be placed in the name of Catclause Limited. If I had received such written instructions, obviously I would have needed to seek a variation of those instructions prior to completion."

Mr. Vaughan was suggesting to you, and you may have to try to do your best to interpret this letter, Mr. Cullen, because Mr. Vaughan has so far indicated

that he will not give evidence, though I don't know, he may change his mind. But as of this moment, I can't tell you that we will have Mr. Vaughan to give evidence as to precisely what he meant by his letter, but he certainly gives the impression that his initial instructions were to acquire this property in the name of Catclause, is that right?

A. Yes.

Q. And am I right that he gives the impression that Mr. Aidan Phelan was the person who was instructing him?

A. Yes.

Q. And that it was being acquired in the name of Catclause as a vehicle for Mr. Phelan's purchase of the property?

A. Sorry?

Q. It was being acquired in the name of Catclause as the vehicle for Mr. Phelan's purchase of the property?

A. Yes.

Q. And then I think Mr. Vaughan says, or Mr. Christopher Vaughan says "I understand that the change of identity of the purchaser has caused compliance difficulties with the bank. Would you agree with me that what he seems to be suggesting is that Mr. Phelan decided that Catclause would not purchase the property but it would be taken in the name of somebody else."

A. Yes.

Q. And then he goes on to say in the second paragraph on

the second page, that because of these difficulties,

Aidan Phelan had now instructed him to write to you to

confirm that the property was going to be held to the

order of Catclause, isn't that right?

A. That's the second paragraph on the second page?

Q. Yes.

A. I

Q. That Catclause is going to be brought back into the

equation again?

A. Well, in terms of interpretation, I would find it

strange that he would, if he knew that Catclause had

have been struck off at that stage, have written that

paragraph.

Q. I agree with that and I don't know whether he knew or

not.

A. And I don't know whether he knew or not. We knew at

that stage.

Q. You knew, yes.

A. So that particular paragraph, from our viewpoint and

reading it

Q. It's quite alarming, wasn't it?

A. Well, yes, very.

Q. He goes on to say "You did ask me for details of

Catclause Limited. I have now had an opportunity to

look at my files and I discover that all the

documentation I had relating to this company has been

passed to Aidan Phelan's English accountants. I am

therefore unable to assist you on that particular point."

Now, again you knew at this point who the directors of Catclause were and I suppose you'd be surprised that any solicitor wouldn't have known who the directors of the company were. He mightn't have known every detail about it, wouldn't that be right?

A. Yes.

Q. He says that he and his partner are Trustees of the property for the benefit of Aidan Phelan and/or Catclause and when requested, will arrange for the transfer of the property into the name of Catclause as registered proprietor.

Now, I don't know if you were aware at that time, but presumably you subsequently became aware that on the 27th February, a day earlier, Mr. Vaughan had written to your English solicitors, Messrs. Eversheds, in a letter which I think I mentioned a moment ago, it's at page 95, in which he said "You will see from the proprietorship registered that the property is held by myself and my wife as Trustees. I do not currently have the trust deed in my possession." It seems that by the 28th, Mr. Vaughan was certainly describing the terms of the trust quite specifically, although we don't know if he acquired the trust deed between those two days, we now know that there was no trust deed,

isn't that right?

A. I overheard that I mean, we don't we have not seen sight of the trust deed but whether, if it exists, it exists, but we haven't seen a copy of it.

Q. While the Tribunal has been informed that there is no trust deed, so maybe there was a trust deed, I don't know. Maybe there was a trust deed containing information that perhaps somebody doesn't want the Tribunal to see. But one way or another, you don't have it and the Tribunal doesn't have it, isn't that right?

A. That's right.

Q. If we go on to the next document, which is page 99, a letter of the 5th March from Mr. Phelan to Mr. Morland and it refers back to the meeting that we described a moment ago. At that meeting, Mr. Phelan had indicated that he would get a list of the directors and the particulars of them, although he did think, he did think at that time that the company had been dissolved. He said he would get a copy of the trust deed and get some other information for you. He is now referring to the meeting. He says "I refer to a meeting in our office on February 28th last in relation to the loan outstanding on the above property. When I entered into the transaction to purchase the above property it was intended that the purchase be undertaken through a limited company Catclause Limited and it was assumed

that I would be appointed a director of this company.

However, it was subsequently decided that I would hold the property personally and complete the amended documentation. Unfortunately, this was not done and I apologise to the bank for the shortfall in the documentation.

I can assure you that, at all times, that the deeds of the property were held to the order of the bank and I understand my solicitor Christopher Vaughan has confirmed that this was and continues to be the position.

I will complete any outstanding documentation in order to reflect the correct position, including security documentation outstanding. Appropriate confirmation as to my net worth can be provided if required. I further undertake to meet the banks within four weeks to discuss the repayment of this facility. If you require me to meet with you today to complete documentation, I will be available.

Finally, I apologise for the inconvenience caused for the shortcomings in this matter."

As of this date you were still not being provided with details of the directors of the company other than that Mr. Phelan understood that or assumed that he would be appointed a director of the company. Do you know

whether by this time you had uncovered your own earlier loan documentation which showed Mr. Phelan as a person assuming the responsibilities of a director in relation to this company?

A. We had.

Q. So you knew that was being stated here was somewhat at variance with the true facts concerning the directorship of Catclause?

A. Could you just bear with me is it the second paragraph? I am not sure it's at variance.

Q. Well, "When I entered into the transaction when I entered into the transaction to purchase the above property it was intended that the purchase would be undertaken through a limited company, Catclause, and it was assumed that I would be appointed a director of this company. However, it was subsequently decided that I would hold the property personally and complete the amended documentation." That would seem to suggest that Mr. Phelan was the original purchaser that, as I mentioned a moment ago, that the vehicle to be used was Catclause but eventually this was altered and instead he took the property personally?

A. Yes.

Q. Now, Mr. Lowry and his daughter, Ms. Lorraine Lowry were the directors of Catclause from the outset, isn't that right?

A. We had that information but I think it says, what we

understood the letter to mean it was and that notwithstanding that, it was assumed that Mr. Aidan Phelan would be appointed a director of that company.

Q. That he would become an additional director or that he would become a director in place

A. appointed a director of the company.

Q. Doesn't that seem to suggest that the directors of the company then were to be, if you take the letter and read it that way, that the directors were to be Ms.

Lowry, Mr. Michael Lowry and Mr. Aidan Phelan?

A. Because it's not said that people were to resign, we would have understood that to be the case.

Q. But certainly nobody had indicated to you, neither Mr. Phelan nor Mr. Vaughan, nobody had indicated to you that Mr. Lowry was in any way involved in this transaction?

A. That is right.

Q. I just want to refer to one other document at this stage. I am not sure when you had it in your possession or when you were in possession of the information contained in it, but if you go to page 106, you see a copy of a letter from Eversheds to the Land Registry, to the English Land Registry, a letter that was obviously copied to you for your own file so I am not sure when you had it in your possession. But if you look at it in any case. This is now the 8th March, 2001 and this encloses an application for a caution

against dealings in respect of the property. And the next document on page 107 is the first page of the, either the application for or the caution itself, it's not clear to me, but if you go onto the second page

CHAIRMAN: Mr. Healy I think you should probably explain in very simple terms the notion 'caution'.

MR. HEALY: I think you know something about registered property yourself, as a banker. You will know that the title to property may be registered either in the registry of deeds or in Ireland in the Land Registry and that if it's registered in the Land Registry the title consists of an entry in the Land Registry indicating the ownership of property. And that entry will also contain the interests of anyone else in the property. You'd be familiar with that.

A. Yes.

Q. And if somebody had any interest or claimed an interest in the property or wished to claim an interest in the property and wanted to institute proceedings in relation to it and so forth, they would arrange for entries to be made in the Land Registry to reflect those matters, you are aware of that?

A. Yes.

Q. And the purpose of this was to ensure that while the title to the property in the Land Registry was shown as being that of Christopher Vaughan and his wife Deborah

Patricia Vaughan, the interest that you had in the property was going to be registered as a caution which would warn other people dealing with the property of your interest. You understand those general propositions?

A. Yes.

Q. And if you go to the second page of the document which is dated, which is signed, PD Vaughan, Waterloo House, Fitzalancourt, Cardiff, 8th March, 2001, do you see that?

A. Yes.

Q. And also, I think, signed by somebody else whose name I can't decipher. I take it that that that 'PD Vaughan' is that person any connection with Deborah Patricia Vaughan?

A. I have to presume it is on the basis that the property is registered

Q. in fairness one name is 'DP Vaughan' and this is 'PD Vaughan'?

A. I appreciate the point because it was our solicitors acting I can't I haven't reviewed this in particular detail.

Q. It may be a coincidence.

A. It could well be.

MR. CLARKE: Sir, just, I understand that, in fact, it's a member of Eversheds, notwithstanding the similarity of the name.

CHAIRMAN: It's purely coincidental, Mr. Clarke?

That's helpful, thank you.

Q. MR. HEALY: Thank you, Mr. Clarke. In fact, if I had looked at the top of document I would have seen that PD Vaughan is a man, Philip Douglas Vaughan. In any case it goes on to say in the body of the document "Under a facility letter dated 20th December, 1999, the cautioner agreed to advance monies to a company called Catclause Limited. £420,000 was remitted to a firm of solicitors, Christopher Vaughan, who the cautioner believed was acting for Catclause Limited in their proposed purchase of the property. The facility letter provided for the cautioner to take legal charge over the property. The property has been registered in the name of Christopher James Vaughan and Deborah Patricia Vaughan. No explanation for this has been given to the cautioner. The cautioner has been informed by Christopher Vaughan that he and his wife are holding the property on trust but he has not said for whom and he has said that he does not have a copy of the relevant trust deed in his possession. As far as the cautioner is concerned, the property should have been registered in the name of Catclause Limited and a legal charge over the property given by the company in the cautioner's favour. The cautioner therefore claims that the property has been wrongly registered in the

names of Christopher James Vaughan and Deborah Patricia Vaughan and the cautioner is entitled to a security interest in the property."

Now, that was an action, obviously not taken lightly by your solicitor suggesting that another firm of solicitors may not have been as forthcoming as they should have been with information concerning a property transaction in which the money was provided by your bank, isn't that right?

A. Yes.

Q. Now, if I go to page 118, the documents include at that page number a file note of a conversation between Mr. Wohlman and Mr. Tunney, both of whom will be giving evidence on the 12th March, 2001 this is Mr. Wohlman's note and it says "Michael Tunney has been trying to contact me and telephoned me at Investec offices in Dublin. Michael Cullen initially took the call and passed it on to me. Tony Morland and Eddie Byrne were also present with Michael Cullen in the same room."

So there were four of you present?

A. Yes.

Q. Four of you in the room while Mr. Wohlman was doing the talking with Mr. Tunney?

A. Yes.

Q. "I asked this is Mr. Wohlman speaking "I asked

Michael Tunney why he had sent the money to purchase the Manchester property for Catclause without instructing a lawyer to take security and ensuring it was in place. He said he had verbally instructed Christopher Vaughan that the facility to purchase the property was in the name of Catclause and a legal charge over the property should be taken. As the deeds were held to the bank's order, he felt the position was protected. He confirmed that Aidan Phelan had executed documents as a director of Catclause Limited and that Aidan Phelan had made the arrangements to borrow the money. He also stated that we should not worry about the credit as Denis was behind it. Asked who 'Denis' was, he confirmed it was Denis O'Brien with whom the bank already had dealings. He went on to say that Aidan Phelan confirmed he would sort all documentation out and ensure the bank was repaid. He stated that Aidan Phelan's attention to documentation was not good and Aidan Phelan had misunderstood our requirements. He reconfirmed that Catclause was the borrower and purchaser. I informed him that Aidan Phelan was not a director of Catclause but that a Mr. and Ms. Lowry were.

He said he now appreciated that but Aidan Phelan would ensure we were repaid. He believed Aidan Phelan had written to the bank to that effect.

I stated I had not seen the letter but would obtain a copy and come back to him as to what Aidan Phelan was saying.

Michael Tunney seems to focus on the credit risk and not the reputational risk if there was a confirmed link between Denis O'Brien and Mr. Lowry."

Can I ask you, was that a conference call?

A. No.

Q. So you were

A. we were in the room, but

Q. did you hear the call?

A. Yes. I didn't hear Michael's side of the call. I would have heard Ian's side of the call.

Q. Mr. Wohlman will be giving evidence in any case in relation to his own note of the call. But do you remember reading this note, Mr. Wohlman's note, where it stated or where it records that Mr. Tunney said he now appreciated that Mr. Tunney said he now appreciated that Mr. and Ms. Lowry were the directors of Catclause?

A. Yes.

Q. You had discussed this with Michael Tunney prior to this date, is that right? Isn't that right?

A. Discussed which, Mr. Healy?

Q. If you just could go back one moment: Do you remember you had the meeting with Mr. Phelan in Mr. Phelan's

offices?

A. Yes.

Q. And then did you not go to a hotel afterwards and meet Mr. Tunney?

A. I did.

Q. And do you remember that the purpose of the meeting with Mr. Phelan was to meet him on his own without Mr. Tunney, who would have been his direct contact, being present?

A. Yes.

Q. And then you met Mr. Tunney independently?

A. Yes.

Q. And do you remember at that meeting with Mr. Tunney telling Mr. Tunney about Mr. Lowry's involvement?

A. At that meeting was myself and Tony Morland and we didn't tell Michael Tunney at that meeting. We mentioned to the Michael that the information we had on file and it would be in his interest to check out who the directors were because our information was different. I subsequently met Michael the next day when I mentioned it to him.

Q. And on the next day, you said to him, 'Look, the director are Michael Lowry and Ms. Lorraine Lowry' and at that point what was his reaction?

A. I said in my statement and certainly my feeling was Michael appeared shocked.

Q. What did you think he was shocked by? Shocked by the

fact that you had the information or shocked by the information itself?

A. Shocked Michael would have known that I had the information. I had indicated the previous day.

Shocked at the information.

Q. So at that stage, did you form the impression that that was the first time Mr. Tunney became aware of

Mr. Lowry's involvement?

A. Yes.

Q. Do you recall whether Mr. Tunney ever told you what response he had obtained from Mr. Phelan when he

brought these facts or presumably must have brought these facts to Mr. Phelan's attention?

A. Did he show me?

Q. You asked Mr. Tunney to go and check things out, isn't that right?

A. Yes.

Q. Do you know whether he checked them out?

A. I think he was checking them out but the following day, and I have no idea whether he found but certainly

when I met him on the Wednesday he set about it. Then

I met him on the Thursday and he was checking them out

but at that stage we had absolute confirmation of the

situation, so we told Michael. I have no idea did he

then continue trying to check it out.

Q. I see. Do you remember meeting Mr. Phelan in the Conrad Hotel on the 2nd March, which would I think have

been the day after your, am I right, the date after

your meeting with Mr. Tunney?

A. Just to put it in time perspective. The Wednesday was the 28th. We met both Michael Tunney and Aidan Phelan separately on that day. I separately then met Michael on the Thursday afternoon and then on the Friday morning I met Aidan Phelan at his request.

Q. And was that at the Conrad Hotel?

A. Yes, it was.

Q. And at that meeting, what did you draw up with Mr. Phelan the fact that you now had firm confirmation that Mr. Lowry and Ms. Lowry were the directors of Catclause?

A. Yes.

Q. And what was his response to that?

A. At the meeting at that meeting we concentrated I mean, and again just to step back from the bank's position, at that stage, we had two issues; one was a credit issue which was still unresolved and secondly, one was a reputational issue which was very much of equal importance. My prime interest on the Friday was to kill off the credit side of it in terms of establishing beyond a shadow of a doubt who was the borrower and to get confirmation on board so as to, I suppose, one could say, take some heat out of the situation because the information we had been given following the meeting on the 28th February, from

Christopher Vaughan, really didn't move us forward. So on the meeting of the Friday it was very much a credit issue. This is what I wanted to know at this stage who the borrower was beyond a shadow of a doubt and I wanted confirmation from Mr. Phelan to that effect.

Not who might be the borrower, but who was the borrower and who was liable for the facility of Investec.

Q. I can understand that. You wanted, at least, to make sure somebody was going to repay the bank/ but did you take up the reputational issue with him?

A. I did not.

Q. Did he volunteer anything to you once you informed him that you knew of Mr. Lowry's involvement?

A. To the best of my recollection, it was the subject not spoken about.

Q. I understand. And it wasn't mentioned in his subsequent letter of the 5th March?

A. No.

Q. Can I now go to page 119, which is I was going to ask you to go to page 119. In fact, chronologically it would make more sense if you were to go to page 121.

From pages 121 and 122, you have Mr. Wohlman's handwritten note of a telephone conversation with Mr. Michael Tunney. Do you see that?

A. Yes.

Q. It says "Note of telephone conversation, 13/3/2001.

Ian Wohlman, Michael Tunney, circa 7.30 p.m. on Denis

mobile" I presume that's a reference to Mr. Denis

O'Brien's mobile? I am wrong. In fact, it's not

"Denis". Mr. Davis says it's IRW's mobile?

A. That's Ian's mobile. That was

Q. In any case from the point of view of the chronology, I

think to bear in mind that it took place at 7.30 and

the note is as follows: "Michael Tunney telephoned as

he was concerned the position regarding Catclause was

escalating and he felt reputationally responsible to

find resolution to questions that had been asked. He

was contemplating returning from the French Alps, where

he was skiing, to contact Aidan Phelan and his

solicitor to obtain clarity and review files. I

advised that it was his judgement if he felt he should

return but any efforts to seek answers to questions

raised of Aidan Phelan or his lawyer would be

appreciated. I also stated it would not be appropriate

to review that Investec Bank, is it?

A. Yes.

Q. "Investec Bank (UK)'s files or represent that he was

working for Investec Bank (UK) as he was not employed

by that company. I advised that I was concerned that

he had stated Denis O'Brien was behind this transaction

and that it now transpires one of the directors of

Catclause was Lowry, an Irish M P, linked to Denis

O'Brien in the Irish Press, allegedly. He stated that

Aidan Phelan had told him Denis O'Brien was behind the

transaction. I informed Michael Tunney that I would be writing to him to seek written response on a number of points from him. We would also be writing to Aidan Phelan and Christopher Vaughan to answer questions."

On the same day it appears that Mr. Morland sent a fax to Mr. Wohlman at 11:30pm, and this is at page 119, on the same subject and on related matters and you will see the connection between the two documents.

"I am sending this from home. Don't trust my own shadow at the moment. I have faxed over the legal note from Ronan, trust you got it. I had a phone call from Michael Cullen this evening when I got home and I thought I'd keep you informed. He has been on the phone to Michael Tunney twice this evening, straddling your phone call with Michael Tunney, and I believe he will be responding in writing to your questions. He also mentioned the following which I think you should be aware of:

Michael Cullen mentioned to Michael Tunney "That it doesn't take a genius to realise that this is reportable to the big M, and that we were under tremendous pressure to sort this out." This refers to the Moriarty Tribunal.

Michael Tunney is off skiing with Denis O'Brien at present. He met with Denis O'Brien between Michael

Cullen's phone calls to update him of the situation and he is extremely concerned and 'shocked' with what has transpired. I take it this as referring to the actions of AP.

Michael Tunney is returning to Dublin and will be using his own lawyer as he has his own reputation at stake here. The fact that he is an officer of the, in a non-executive capacity, does not appear to have entered the equation.

Michael Cullen is attempting to get them (I assume this to mean Denis O'Brien and MT) - Michael Tunney - to make full disclosure of the facts prior to us doing so.

I would think this would be to ourselves and some form of regulator or Tribunal. In other words, he is trying to get them to preempt any investigation. Michael Cullen and Ronan" I think that's a reference to a solicitor, is it?

A. Ronan Moloney in McCanns.

Q. "Will be going to the Central Bank of Ireland tomorrow to discuss the implications with regards to client's confidentiality with them, "which should buy some time for all concerned".

Michael Cullen would take the consequences of any fallout from the Central Bank if it became apparent that we had actually tipped off the parties to our report about the impending issues. Not so sure about

this point.

We are playing the balancing act between what is in the best interests of our customer "relationships" (which I assume to be income and business risk) and the requirements to report the transaction.

Just wanted you to be aware before the board meeting of all the facts, that the people concerned are now aware of the gravity of the situation and we are going to the Central Bank of Ireland tomorrow, Wednesday. I can confirm that Michael Cullen has reiterated to me that he has not made Michael Tunney aware of our visit to the Central Bank of Ireland. I hope you will use this information in the usual manner.

I feel like I am reporting on my own classmates although I am sure by now Michael Cullen assumes whatever he tells me will be brought back to Investec anyway.

Speak later.

Tony."

Now, would you just, lest there be any doubt about it, all of this material was brought to the Central Bank and to the Tribunal around this time, isn't that right?

A. Absolutely.

Q. Now, if I could just go through some of the references

to your involvements with Michael Tunney mentioned in this memorandum. I take it firstly you have no reason to doubt that the memorandum is, in general, accurate in relation to your dealings?

A. It is, in general, accurate.

Q. It says at the beginning "I have faxed over the legal note from Ronan. Trust you got it. I had a phone call from Michael Cullen this evening when I got home and I thought I'd keep you informed. He had been on the phone to Michael Tunney twice this evening." Now, that's the evening of the 13th March. Do you recall those phone calls in the sense that Mr. Tunney

A. yes.

Q. do you remember what passed between yourself and Mr. Tunney in the course of the calls? Mr. Tunney was, after all, away on a holiday at the time, wasn't he?

A. He was. And just to explain again the background on the, just to be absolutely sure of our dates. On Monday 12th March, we had visited the Central Bank of Ireland to give them the details of the various transactions and they had prompted us to think seriously and quickly about bringing the details to the Tribunal, the Moriarty Tribunal. That meant that in terms of the seriousness of the issue and the urgency of the issue becoming paramount and that one of the key players, Michael Tunney was away, so that we had agreed that I would ring Michael and, without trying to

overlay the situation, impress upon him the seriousness, that it had moved away from a credit issue, because people had focused in we were trying to solve a credit issue the previous week and now we were seriously under time pressure to report all the information that we had. We have responsibilities to our customers and we take them very seriously and we had to be sure, at the same time, that we give due regard to our customer responsibilities. So we needed Michael back.

Q. Can I just stop you for a minute at that point. Did you know who your customers were, at this point?

That's not a smart question. I can see the difficulties you had. But did you really know who your customers were?

A. At that stage, I believed that sorry, I had written confirmation from the previous week that Aidan Phelan was responsible for the loan facility and therefore he was my customer, and he was my customer.

Q. You also knew that, I suppose, other people had a potential or appeared to have an involvement in this transaction from what you were being informed?

A. We had been informed linkages had been made names had been mentioned and other names Mr. Lowry's name had come up in a file that from a reputational viewpoint, meant that the transaction was no longer paramount a credit transaction, we had obligations from

a regulatory viewpoint and a reporting viewpoint
outside the norm.

Q. What you had was a situation in which you had a loan
that was outstanding where the nominal borrower on your
books at the very beginning was a company called
Catclause, that Mr. Lowry was a director of this
company and that you had been told that this was a
Denis O'Brien transaction and that Mr. O'Brien was
behind it. That's the linkage, isn't it?

A. Yes.

Q. As of this moment, Mr. Phelan had asserted or
represented himself to you as the person who was going
to repay this money. He was going to be the customer as
of now?

A. Yes.

Q. But the background behind that was extremely unclear,
muddy at least, going back to the very first day that
the loan came in?

A. The history was bad but the reality at that stage from
a credit viewpoint was more positive than it had been.

Q. I fully accept that. From a credit viewpoint you had
somebody who was going to write a cheque for you.

I cut you off there. You were trying to put this in
context. I said that you had had two calls to
Mr. Tunney and I wanted you to tell me about them.
You indicated that you were impressing on Mr. Tunney,
'This is a serious matter'. You had mentioned the

linkages to him and do I take it you were trying to impress upon him he might have certain obligations to bring things to the notice of the Tribunal or to disclose them to anybody else?

A. The seriousness of the situation and that I think it's fair to say, 'I think Tony' that I remember using the words 'I think that it doesn't take a genius to realise that it's reportable to the big M', I used those words to emphasise to Michael the seriousness of where we were at.

Q. There is a note here that 'Michael Cullen is attempting to get them', I assume this to mean Denis O'Brien and Michael Tunney, 'to make full disclosure of the facts prior to us doing so'. What did you mean by 'make full disclosure of the facts prior to your doing so' at that point?

A. Well, our aim has been was indeed was that we would make we had information on file, we are not detectives, we weren't a hundred percent sure it was absolutely accurate. People may have disputed some of the information that we had on file. However, we had rights or obligations to report the information, but in terms of our obligations to our customers, we owed them the absolute right that they would have an opportunity to see our information without a question of tipping them off that we would go jointly to the Tribunal. So as if there was an innocent explanation, that later on

we wouldn't regret not having given an opportunity to our customers to explain what might have been innocent transactions in a full manner. And the objective that I had in ringing Michael was to get Michael to, as perhaps the middle man, to (a) emphasise the seriousness of where we were at and (b) to get people to start focusing in before there could be a leak in any shape or form. And the objective was that it would be a joint approach to the Tribunal between our customer and ourselves, even though there may be a difference in the information that would be given.

That was our objective.

Q. I understand. Now, you had two phone calls. That was the first phone call presumably. You were emphasizing the seriousness of the matter. Then Mr. Tunney appears to have met with Denis O'Brien. Then you spoke with Mr. Tunney again?

A. Yes.

Q. What was the result of Mr. Tunney's conversation with Mr. O'Brien?

A. The result, or what Michael mentioned at the time was that he had been mentioned and that Mr. O'Brien was furious.

Q. Again furious at what?

A. Furious I mean, I understood that to mean that, and I think it was said that that was the first time that he became aware, my memory I probably it was

furious and, you know, one doesn't at that stage go into what did he it's furious that he was mentioned at that time, that this was a problem.

Q. Now, again in fairness to you and to Mr. Phelan, there was, in fact, subsequently a joint approach to the Tribunal by you and by Mr. Phelan through Mr. Phelan's then-solicitor Mr. O'Connell, isn't that right?

A. Yes.

Q. And your solicitors, Messrs. McCann Fitzgerald.

A. Yes.

Q. That's Mr. O'Connell of William Frys. Mr. Phelan is now represented by Messrs. A & L Goodbody solicitors?

A. I understand it to be Mr. Owen O'Connell of William Frys.

Q. Has the loan been paid off?

A. It has.

Q. By Mr. Phelan?

A. Yes.

Q. On the 21st March, I think is it, of this year?

A. The date I am sure is in at the 21st March.

Q. Did you have any discussion directly with Mr. O'Brien concerning this loan?

A. Yes.

Q. When was that?

A. That, to my recollection, I think it was on Thursday 14th March.

Q. And what did you say to Mr. O'Brien?

A. Sorry, Mr. O'Brien rang me.

Q. And what did he say to you?

A. He conveyed his annoyance and that he was aware there

was a transaction or there was information going

to the Tribunal and he was aware that his name was in

some documents going to the Tribunal and he was upset.

I believe he said he was angry. It was a very

civilised conversation but he expressed his annoyance

that his name was being mentioned in a transaction

which he had no involvement with. And secondly, that

if he had an involvement, why had I not contacted him

directly in relation to this facility?

Q. That wasn't an unfair question, was it?

A. It was a very reasonable question.

Q. Do you know why nobody contacted Mr. O'Brien in

relation to it?

A. I do well, sorry as I said to Mr. O'Brien at the

time, there are two points. One, the particular case I

indicated, I understood his annoyance, but particularly

I said Mr. O'Brien in this case from our viewpoint,

from a legal viewpoint, had no legal responsibility to

the bank. He was not in this case a customer of the

bank in this particular case, the customer. We had

client/customer confidentiality requirements and we

cannot speak in relation to a case to anybody just

because his name was mentioned. I did also say to him

that it was his name was used many, many times and

that if I was to ring him on cases where he had no involvement with where his name had been mentioned or was interested in the deal, I would be ringing him on a lot of the times. The only times we would have direct contact with Denis O'Brien was in relation to transactions where we had specific relationships with him.

Q. But in this case his name hadn't been mentioned by just any old Tom, Dick or Harry. It had been mentioned by, according to your records, by Mr. Aidan Phelan who was a close associate of Mr. O'Brien and a person who had often handled his affairs, isn't that right?

A. That is right.

Q. And it is been mentioned by Mr. Michael Tunney, who was also known to be a long-term, if you like, supporter in the bank of Mr. O'Brien, isn't that right?

A. Yes.

Q. So these were two people who had mentioned his name who were not just mentioning it for the sake of colour.

They were people who were intimately involved, either on the bank side or on Mr. O'Brien's side, with Mr. O'Brien's financial affairs, isn't that right?

A. Yes.

Q. And if comfort is to mean anything, doesn't it mean that you can rely on a person whose name is mentioned in this way in connection with a transaction, as you said at the outset, to move it on or to sort out a

problem in relation to it, isn't that right?

A. Yes.

Q. Now, I accept that in this case you had Mr. Phelan to deal with who was, I suppose, in one way, a person you might have dealt with on Mr. O'Brien's behalf before, but did you not think of contacting Mr. O'Brien directly when the interminable problems, where this was loan was concerned, began to mount up?

A. I did not.

Q. But you did have an assurance, I think, from Mr. Phelan when the matter was drawn up with him, that Mr. O'Brien was behind it, even in the latter stages of the problem, isn't that right?

A. Yes.

Q. Did you tell Mr. O'Brien that you didn't take the matter up with him because Mr. Phelan had assured you that he, Mr. O'Brien, was behind it?

A. I didn't.

Q. Thanks very much.

CHAIRMAN: Well, there are some persons who may have a number of questions to ask and I think, Mr. Gleeson, if you wish to raise any, I'll give you first opportunity.

THE WITNESS WAS EXAMINED AS FOLLOWS BY MR. GLEESON:

Q. MR. GLEESON: Now, Mr. Cullen, I act for Aidan Phelan, whom you have been talking about this afternoon. You

told the Tribunal this morning that, first of all,

Denis O'Brien was aware of the transaction, isn't that right?

A. I think my evidence said that, in my statement. Can I just refer back to it?

Q. Yes.

A. I was asked to interpret what I meant by my statement.

Q. And I think you said that, in answer to Mr. Healy, you said that you understood this to provide some comfort to the bank so that if the transaction got into difficulty, the bank would not suffer.

A. Mr. Gleeson, could you just the point, if I remember, I hope I remember the evidence that I gave this morning I think Mr. Healy asked me to interpret what I meant by at the time Mr. Tunney told me Denis O'Brien was aware of the transaction. I was asked to interpret what I would normally or understand by that, or what I mean by those words.

Q. Yes. But if I recall your evidence correctly, you did say that this provided a comfort factor to the bank, that Mr. O'Brien was aware of the transaction. Did you use those words?

A. I used the word 'comfort'. I am not hesitating in terms of saying

Q. I am just trying to confirm what you said this morning, Mr. Cullen.

A. Okay.

Q. But wouldn't you agree with me that Mr. O'Brien is somebody who would have been aware of a lot of different transactions?

A. There is no doubt about that.

Q. And the mere fact that he was aware of a transaction didn't cast any obligation on him in relation to that transaction?

A. No legal obligation whatsoever.

Q. No legal obligation. So that the fact of his being aware of the transaction was really of no significance to the bank from a credit perspective?

A. In giving the credit approval, it had no bearing it had little or no bearing whatsoever on any credit approval.

Q. And I think this is also reflected in the fact that in the documents that were generated by the bank when the loan was given, there is no reference to Mr. O'Brien?

A. Absolutely no reference.

Q. Isn't that correct? And if the bank was relying on Mr. O'Brien to make good the transaction or to support it in some way, you would expect to find a reference to it at the start, isn't that right?

A. Yes.

Q. So can we take it then that you agree with me that from the outset there was no question of the bank relying upon Mr. O'Brien in any shape or form in relation to this transaction?

A. Yes, from a legal viewpoint, Mr. O'Brien did not enter into this transaction whatsoever.

Q. And so for somebody to say that Mr. O'Brien was standing behind the transaction, from your perspective was there any document from the bank to support that assertion?

A. None.

Q. And I think you have just confirmed to Mr. Healy that until the matter came to a head in March of this year, there was no contact made by any person in the bank with Mr. O'Brien in relation to this transaction?

A. Not that I am aware of. The contact made in March was the contact I had with myself and the contact that Michael Tunney had.

Q. And can we conclude then or will you agree with me, Mr. Cullen, that anybody coming into the bank and looking at the documentation when it was reconstituted, would see no reference at all to Mr. Denis O'Brien?

A. In terms of the legal documentation they would not see a reference to Denis O'Brien. In terms of notes on e-mails there are references to Denis O'Brien. In terms of conversations, there are references. But in terms of any documentation respecting the loan, that are legal and enforceable, there would be none.

Q. Well, in terms of e-mails or other references to Mr. O'Brien, can you give the Tribunal a date for the first internal reference to Mr. O'Brien. I think, if my

memory serves me right, it's an e-mail in December of 2000?

A. The first yes, I think it is Eddie Byrne's one in December, DOB.

Q. So this is almost twelve months to the day after the loan had, in fact, been made?

A. Yes.

Q. And it was at a time when a number of people within the bank were becoming concerned about this loan, isn't that right?

A. Yes.

Q. So for a whole twelve months the loan had been in existence and had been the subject of some discussion within the bank without any reference to Mr. O'Brien?

A. No. You mentioned there that what was the first formal written-down information on it.

Q. Yes?

A. And I think when going through it, was the e-mail of December. In terms of discussion within the bank, in just general discussion about progress on cases, Mr. O'Brien's name would have been mentioned in discussion, but it's not written.

Q. Well, we'll come to the references to discussion in a moment. But just as a general point, if there was a mention of somebody of his stature in discussion, would you expect to see that written down?

A. Not particularly.

Q. If it was something that the bank regarded as important, would you expect to see it written down?

A. Yes.

Q. So can we conclude from that that the discussions that referred to Mr. O'Brien for that twelve month period, were not, from the bank's perspective, important?

A. They weren't important, no, in terms of the credit facility that was outstanding.

Q. Although I think, isn't it fair so say that some time before December, 2000, this loan had become a credit concern for the bank?

A. The loan was outstanding, had matured. 'Credit concern' might be an extreme interpretation. It was a loan that needed to be regularised and perhaps repaid, but 'concern' is probably putting it a little too far.

Q. Well, okay, a loan that needed to be regularised. The loan was due to be repaid, I think in the middle of the year 2000, isn't that correct?

A. The 31st July.

Q. So it had become an irregular loan from the 31st July?

A. It had.

Q. And yet we don't find any written record of any reference to Mr. O'Brien until December of that year?

A. Yes.

Q. Doesn't that suggest to you that Mr. O'Brien, as far as the bank was concerned, had nothing to do with this transaction?

A. The gap between July and December, just for clarification, was taken up in the context of the property was going to be sold and we were going to be repaid so there was no concern, it was going to be repaid, and we were in discussions with Mr. Phelan in respect of that facility. So the question of any comfort factor from anybody just was not material at that stage because we looked as if we were going to get repaid.

Q. Well, can I just tease that out with you? A number of different people within the bank had been asked to look into this loan, isn't that so?

A. Yes.

Q. And I think Mr. Byrne was one of the people involved in that exercise?

A. Yes.

Q. I wonder could you tell us what his position was within the bank?

A. Head of Private Banking.

Q. And can you identify the other people in the bank who were actively addressing this unpaid loan between July and December of 2000?

A. Initially Georgina Keane, who would have been reporting to Eddie Byrne, and after Georgina left the bank, Nicola Chapman.

Q. yes.

A. who reports to Eddie Byrne. They were primarily the

ones, they would have been prompted by our risk people under Tony Morland.

Q. And I think you also said in your evidence that Mr. Tunney was assisting the bank in relation to this matter?

A. Yes.

Q. Presumably because he was the person who had initiated this loan facility?

A. Both initiated the facility and had the direct relationship with Aidan Phelan.

Q. And he was presumably also helping the other people in the bank during that period?

A. In what sense?

Q. In the sense that you have just described, that these were people addressing the loan and trying to find a solution to the fact that the loan had not been repaid?

A. Yes.

Q. And were you yourself involved during this period?

A. Very peripherally in the sense that I was aware that the loan had become outstanding and therefore I would be prodding it in terms of I had an interest in it.

In terms of detail, no. I became actively involved at the first meeting when I met with Aidan Phelan with Michael Tunney in January, that's when I became, what we could say, active.

Q. I think you also said it was a high profile matter, isn't that right?

A. Yes.

Q. So here was a high profile loan which had not been repaid and which was the subject of investigation by a number of people in the bank, isn't that so?

A. Yes.

Q. And by the end of that year the bank was still concerned that it did not have documentation in place in relation to this loan, isn't that right?

A. Yes.

Q. And can I just suggest to you that what appears later in the history of this matter, and particularly in February and March, is that there are references in the bank's documents to Mr. Denis O'Brien but at the time when the bank was conducting its investigations into this matter with a number of personnel for a number of months, there was no reference to Mr. O'Brien, isn't that so?

A. That's true.

Q. Now, Mr. Chairman, I was going to move on to a related topic. I don't know whether it's

CHAIRMAN: Well, since there are potentially some four other persons who may have some questions to ask, I am obviously conscious that it's unreasonable on the stenographer to sit much longer so I think its clear it's going to be more than some five to ten minutes.

MR. GLEESON: I am afraid it will.

CHAIRMAN: So I'll ask you in those circumstances, Mr.

Cullen, if you'd be kind enough to come back to

conclude your evidence in the morning. It will

undoubtedly finish before lunch tomorrow.

MR. CLARKE: Sir, could I mention one matter? I think

you are probably already aware Mr. Wohlman, who is one

of the witnesses whom you are to hear, is available and

is indeed travelling to Dublin tomorrow. He is in the

middle of some very significant work at the moment and

his travelling is being done with some difficulty. I

impressed on my colleagues that it would be important

if at all possible that his evidence be heard and

completed tomorrow.

CHAIRMAN: Well, we'll take him immediately after

Mr. Cullen, Mr. Clarke, and it would seem to me that

Mr. Healy has gone through the actually sequential

paperwork in some detail with Mr. Cullen, that probably

Mr. Wohlman's evidence will be somewhat narrowed and I

will be optimistic that we may seek to conclude it in

the course of tomorrow's sitting.

MR. CLARKE: I appreciate that, Sir.

THE TRIBUNAL THEN ADJOURNED UNTIL THE FOLLOWING DAY,

WEDNESDAY, 18TH JULY 20001 AT 11 A.M.