

TRIBUNAL OF INQUIRY

(PAYMENTS TO MESSRS CHARLES HAUGHEY AND MICHAEL LOWRY)

Appointed by instrument of An Taoiseach dated

26th day of September 1997

pursuant to the

Tribunals of Inquiry (Evidence) Acts 1921 and 1979

DAY 155

TRANSCRIPT OF PROCEEDINGS HELD IN DUBLIN CASTLE

BEFORE MR. JUSTICE MICHAEL MORIARTY (CHAIRMAN),

ON FRIDAY, 31ST OCTOBER 1997, AND FOLLOWING DAYS:

TRANSCRIPT OF PROCEEDINGS ON TUESDAY, 30TH JULY, 2002:

A P P E A R A N C E S

THE SOLE MEMBER: Mr. Justice Michael Moriarty

FOR TRIBUNAL: Mr. John Coughlan SC

Mr. Jerry Healy SC

Ms. Jacqueline O'Brien BL

Instructed by: John Davis

Solicitor

FOR DENIS O'BRIEN: Mr. Eoin McGonigal SC

Instructed by: Eoin O'Connell

William Fry Solicitors

FOR MICHAEL LOWRY: Mr. Donal O'Donnell SC

Mr. David Barniville Bl

Instructed by: Kelly Noone & Co.

Solicitors

FOR AIDAN PHELAN: A & L Goodbody

Solicitors

OFFICIAL REPORTER: Mary McKeon SCOPIST: Ralph Sproxton

I N D E X

WITNESS:	EXAMINATION:Q. NO:	
MICHAEL LOWRY	MR. HEALY	1 - 384
DENIS O'CONNOR	MR. HEALY	385 - 474
MR. O'DONNELL		475 - 487
MR. HEALY		488 - 499

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THE TRIBUNAL RESUMED AS FOLLOWS ON Tuesday, 30th July,  
2002 AT 11AM:

CHAIRMAN: I had indicated, ladies and gentlemen, that before taking up the evidence of the two witnesses to be heard today, I would make a limited number of further remarks regarding the intended further course of the work of this Tribunal.

It is undoubtedly the case that the period since we concluded our last substantial public sittings in November last has been a lengthy one, and the cost entailed in the work carried out in the interim considerable. But this has to be assessed in the context of what has transpired to be immeasurably the most complex and diffuse type of issue that has been undertaken at any stage by this Tribunal.

It is not a money trail inquiry. It has involved dealing with very many potentially involved persons in at least six jurisdictions in an endeavour to reconstruct the many layers of what appears to have

taken place at the various stages of the competition,  
ultimate award of licence, and related issues.

Some approximately 75,000 pages of documentation has  
already been required to be considered by the Tribunal  
in the course of that exercise, and further material  
capable of changing the position has still continued to  
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come in. Without cliché, this matter has transpired to  
be a Tribunal within a Tribunal. It is foursquare  
within our Terms of Reference, and it relates to what  
probably was as far-reaching and momentous a decision  
or series of decisions as has been taken by any Irish  
government in an administrative context.

While some persons may seek to urge an immediate  
hearing, it must be remembered that there are  
considerable numbers of potentially involved persons  
over and above those most frequently mentioned in  
connection with this potential issue. They too are  
entitled to fair procedures.

Consideration was given to making an earlier start a  
few months ago, but in retrospect, it would have been a  
mistake to have then embarked, and it would not have  
provided the sort of structured and coherent  
presentation of quite complex and convoluted evidence  
that the persons concerned, and indeed the public, are  
entitled to expect.

I also feel that when the issues are taken up, the structured and coherent presentation that I have referred to will enable time to be saved in the presentation of the evidence in that orderly fashion.

If the time that has been taken up to date in preparation has been to any degree excessive, the fault is mine and nobody else's, because the legal team

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working with me here have worked exceedingly hard and conscientiously; and I believe the deferral, whilst lengthy, has been unavoidable to enable the toughest part of this Tribunal's task to be undertaken professionally and adequately.

With this in mind, it is my intention that the particular phase of the hearings related to these matters will be taken up at or immediately proximate to the start of the new legal year in October. There will be a detailed opening of what is entailed, and that will then be followed immediately by what will inevitably be quite lengthy evidence. It will be neither short nor easy, but it will be no longer than the minimum that I consider necessary to deal properly with the related topics involved.

When I speculated with what may now seem to have been specious optimism during the portion of the evidence relating to Mr. Charles Haughey as to the likely

time-frame of the Tribunal, it was in the belief then, held in good faith, that there would be comparatively little or nothing to be explored in regard to this intended phase of evidence. That has not transpired to be the case.

When the Tribunal takes up the various recommendatory aspects that it is charged with, one of the aspects requiring attention will be to examine how, if future tribunals of inquiry are established, the, in many /AP

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ways, dispiritingly lengthy duration of this one can be avoided. Yet it is the case that experience in the course of this Tribunal has shown that it is by painstaking digging, rather than hunches or lightning flashes of inspiration, that a majority of important information is uncovered.

After this intended aspect of evidence commencing in October, and some loose ends that remain from other evidence, have concluded, the Tribunal will return to certain matters by way of acts or decisions that pertain to Mr. Charles J. Haughey. Extensive work has been carried out on a number of these already. I will have regard, in taking up this aspect, to the age, state of health, and time-frame of the Tribunal in the context of Mr. Haughey's circumstances, but I must nonetheless balance this with adequately addressing the

particular Terms of Reference that may fall within our remit by way of any such acts or decisions.

With this in mind, whilst I will not break the Tribunal practice of declining to reveal what may or may not have been done on foot of confidential investigations on any issue, I am prepared to accept that I should not take the approach of disqualifying myself simpliciter from dealing with any matter involving Cement Roadstone Holdings because of my previous and declared interest in that company. I say this with some care and some reluctance because of a number of factors including, (a), the representations made by counsel on behalf of /AP

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the public interest and the Attorney General and the representations on behalf of senior representatives of political parties in the last Dail; (b), the fact that a certain amount of Cement Roadstone Holdings related work has in any event been undertaken in public sittings here; (c), the scarcely desirable course of yet another Tribunal of Inquiry being sought to be established, and (d), the fact that ongoing sittings in a lengthy inquisitional process in a small country such as this one have shown how hard it is for any Chairman to be entirely unacquainted with any person or entity who may crop up in the course of ongoing sittings. Nevertheless, I shall give anyone with locus standi who

may incline to a different view on this aspect a chance to be heard, and I do reserve taking a position or view on any contingency that may arise if there seems to me to be an insurmountable conflict of duty and interest.

Those, ladies and gentlemen, are the few brief remarks that I wish to make on our future intended course of dealings, and I will now ask counsel for the Tribunal to take up the two witnesses who have attended to testify today.

MR. HEALY: Mr. Michael Lowry, please.

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MICHAEL LOWRY, PREVIOUSLY SWORN, WAS EXAMINED AS

FOLLOWS BY MR. HEALY:

CHAIRMAN: Thank you for your further attendance, Mr.

Lowry. Please sit down. You are already sworn.

MR. HEALY: Thank you, Mr. Lowry.

The documents that were brought to your attention recently, Mr. Lowry, and upon which you were asked to comment, contain references to property transactions in England that the Tribunal has already examined, and you have already given evidence in relation to them, and they have been described earlier in evidence as the Cheadle and the Mansfield properties, and I take it you understand those distinctions.

A. Yes.

Q. Now, in relation to the Cheadle property, I think the

evidence you gave and the documentation that was made available to the Tribunal by you was to the effect that as far as you were concerned, you were not involved in that property after January 2000 when the guarantee arrangement with Mr. Daly fell through?

A. Correct.

Q. And that from that time onwards, although you had purchased the property, Mr. Aidan Phelan was the person who was now the owner of it, and what is more, who was now going to be responsible for the loan to Woodchester; isn't that right?

A. Correct.

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Q. I think you did say that you did regard yourself as honour-bound or morally bound to move the property on; is that right?

A. Yes.

Q. Now, just so that we can understand the position regarding your dealings with Mr. Christopher Vaughan in connection with any of these properties, can you tell me what the current status of the Mansfield property is?

A. The current status the status of the Mansfield property since this Tribunal last sat or interviewed me is that I continue to retain 10 percent ownership of that particular property. The only thing that has



happened in the interim is that at the request of Aidan Phelan, I agreed to sign over the ownership of that property in the name of Aidan Phelan, but I retain, obviously, my 10 percent.

Q. I see. When did Mr. Phelan ask you to do that?

A. About, I would say, three or four months ago.

Q. Up to that time the property had been in your name?

A. Yes, which was brought to the attention which I gave in evidence, yes.

Q. Yes, you did you gave evidence of that. So up until three or four months ago, that property was definitely in your name; but as far as you were concerned, you were only entitled to 10 percent of it, and Mr. Aidan Phelan was entitled to 90 percent of it, on foot of I think what both of you described as a joint venture agreement; is that right?

A. Yes. The involvement legally superseded the fact that /AP

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it was registered in my name.

Q. And that joint venture agreement is still in effect, is it?

A. Yes.

Q. Can you tell me, did Mr. Christopher Vaughan effect this change, or is he, or was he then, still the solicitor involved in dealing with the matter?

A. My understanding is that Aidan Phelan has a different

solicitor dealing with that; he has a solicitor in Manchester. I don't know the name of the company.

Q. Well, is Mr. Christopher Vaughan still acting as your solicitor in relation to that property?

A. My interest in that property continues to be the 20 percent which would be dealt with by the solicitor who was looking after the property itself, which is the solicitor in Manchester.

Q. So does that mean that all the papers in relation to that property went to the solicitor in Manchester at some point?

A. I have no idea. Aidan Phelan was dealing with that matter.

Q. But I am sure you'll understand, you must have had dealings with solicitors before; you can understand that I am surprised as to how a solicitor, Mr. Christopher Vaughan, could transfer the ownership of that property from your name into someone else's name without your consent to do so.

A. Sorry, I already stated that I was requested by Aidan Phelan, for efficiency reasons or whatever reasons, to transfer the property to his name as the 90 percent

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owner of it, and I agreed to do that; I agreed to do that. He made the arrangement, and I signed whatever documentation he sent to me.

Q. I understand. So did he ask you to do this by letter, or did he simply ring you up and ask you to do it?

A. He rang me and then asked me sent on the documentation.

Q. Well, did he ring you and say, "Look, I want to transfer this property into my name for", as you say, "an efficiency reason", or did he give some other reason?

A. No, that's the reason.

Q. Efficiency?

A. Yes.

Q. What was the efficiency? Can you recall?

A. I don't I didn't ask him, obviously. I just agreed, and I said fine; I didn't have a problem with that.

Q. And did he send you legal documents?

A. Yes.

Q. Do you have those legal documents or copies of them yourself?

A. Yes, I will have copies of them.

Q. And did you get any legal advice yourself in relation to signing those legal documents?

A. No. It was a straightforward matter. There was a simple transfer of the ownership of the property, and the reason I agreed to do that is that he is the 90 percent shareholder in it, and from the documentation it's clear that I retain my 10 percent, but he is simply the registered owner. That was the only change

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that was effective.

Q. At the time that Mr. Phelan asked you to do that, and at the time that he handed you those documents or did he send them to you, or hand them to you?

A. He sent them to me.

Q. Did you meet him face to face in relation to it?

A. No, he just sent the documents to me. I signed them and sent them back.

Q. What solicitor was acting in relation to those matters from Mr. Phelan's point of view at that stage?

A. I don't know the name of the company, I can't recall, but I recall him telling me that it was a legal practice in Manchester, that he has a lot of other business dealings with it.

Q. I presume that you would have been fairly familiar with Mr. Christopher Vaughan's headed notepaper, and it wasn't his notepaper that was involved, in any case?

A. No.

Q. So the matter had passed out of Mr. Christopher Vaughan's hands. Did you have any direct dealings with Mr. Christopher Vaughan in relation to that?

A. No.

Q. Do you recall whether any of the documentation that Mr. Phelan gave you included a direction to Mr. Vaughan to hand over any documents in the matter to some other

firm of solicitors?

A. Like, I don't recall.

Q. Up until the time that this was done, a few months ago, what dealings had you had with Christopher Vaughan in connection with the Mansfield property?

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A. None.

Q. None whatsoever? Nothing had happened in relation to it?

A. In recent times, no.

Q. Now, in relation to the Cheadle property, which you ceased to have anything to do with from January of 2000 when you divested yourself of your interest in it, can you tell me what further contact you had with Mr.

Vaughan or with Mr. Aidan Phelan with a view to moving the property on since you last gave evidence?

A. None.

Q. None?

A. None.

Q. Have you done anything yourself with a view to moving the property on?

A. The Cheadle one?

Q. Mm-hmm.

A. No. I haven't got involved, for the reason that in or around the same time that Aidan Phelan made the request to transfer the 90 percent, he said he had made

progress on the Cheadle property and that he was dealing with it himself.

Q. I see. Up to the time that Aidan Phelan told you that, you had no you had had no dealings with it either?

A. Neither, no.

Q. And did he tell you that in the course of the telephone call he made to you asking you to transfer the Mansfield property into his name?

A. I think I asked him, what was the position? Had he made any progress? And he said to me, "Look", he said, /AP

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"leave it to me; I have made progress, and I'll deal with it myself."

Q. But am I not right also in thinking that between the time in January 2000 when you divested yourself of any interest in that property, you gave evidence that you didn't get actively involved in moving it on at all?

A. I didn't. I simply didn't have the time.

Q. I appreciate that. You did say you felt you had a moral obligation, or at least Mr. Phelan did, but in any case you did nothing about it?

A. No.

Q. And you had no dealings with Christopher Vaughan or Kevin Phelan about it?

A. No.

Q. Was Mr. Christopher Vaughan dealing with any other

property in England on your behalf or in the UK on your behalf, or any other property at all, I suppose I should say?

A. Was Christopher Vaughan no.

Q. Did you have any other property in England for which you were using some other solicitor?

A. Yes. I have I am involved in a property, as I informed the Tribunal, in Wigan.

Q. Is that the Vineacre property, or am I mixing it up with something else?

A. Yes.

Q. Is there a totally different solicitor dealing with that?

A. Yes.

Q. Nothing whatsoever to do with Mr. Vaughan; they would /AP

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have had no connection to do with one another?

A. Maybe originally they had. I can't recall the time scale involved. Maybe originally Christopher Vaughan had, but certainly not in recent times and not now.

Q. Well, would I be right in thinking that at the time you ceased to have anything to do with the Cheadle property, Mr. Vaughan wasn't dealing with the Vineacre property?

A. I'd have to check my files on that; I am not quite sure.

Q. Can you remember when you bought the Vineacre property?

A. I don't I don't have the precise date.

Q. Can you remember roughly?

A. It would have been I think around 2000.

Q. Around 2000?

A. 2000-2001.

Q. Can you remember if you had bought it, I think before you gave evidence the last time, which was in November of last year; isn't that right?

A. Yes.

Q. So do you remember if you bought it last year?

A. I must have bought it last year, in or around that.

When I say I bought it, I just have, again, a partnership.

Q. I appreciate that. It was bought last year, in any case.

A. I don't have the precise details of it, but I certainly can provide you with them.

Q. So that in any case, in the year 2000, you had the Vineacre property; you had your 10 percent interest in /AP

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the Cheadle property

A. 10 percent in the Mansfield.

Q. In the Mansfield property; and after January of that year, you had no interest in the Cheadle property?

A. Correct.



Q. And at the time that you acquired the Cheadle property, which was I think around December of 1999, the only other property you had in the UK was the Mansfield property?

A. Yes.

Q. After you ceased to have anything to do with the Cheadle property, did you regard Christopher Vaughan no longer as your solicitor in relation to that matter and as your solicitor only in relation to the Mansfield property?

A. Correct.

Q. You never formally instructed him or you never formally withdrew his instructions, as far as you can recall, in relation to the Mansfield property unless some document Mr. Phelan gave you directed that his instructions would be withdrawn; is that right?

A. On the Cheadle one?

Q. Yes.

A. Cheadle?

Q. On the Cheadle, yes. I am confusing you, I am sorry, I am confusing you. Sorry; let's take it

A. I understand what you are saying.

Q. In relation to Mansfield, you got documents from Mr. Phelan. You don't know whether they contained a withdrawal of instructions to Mr. Vaughan, but we can

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check that, obviously; we can look at the documents.

A. Yes.

Q. Apart from anything you may have signed for Mr. Phelan, do you ever recall formally telling Mr. Vaughan yourself that you were withdrawing his instructions in relation to that property?

A. No.

Q. In relation to the Cheadle property, did you have any direct contact with him telling him that you were no longer involved?

A. What happened was Aidan Phelan notified him of that, and subsequent to that, probably within days or what have you, I recall getting a phone call from Christopher Vaughan telling me that Aidan Phelan had instructed him as such.

Q. I see. So as and from that time, you were satisfied that Aidan Phelan had instructed Mr. Vaughan that you weren't involved and that Mr. Vaughan understood that?

A. Yes.

Q. Can you remember roughly when that telephone conversation took place?

A. I would say January/February.

Q. 2000?

A. Yes.

Q. Did Mr. Phelan give you any reason for changing solicitors in relation to the Mansfield property to his new solicitors in Manchester?

A. He didn't. I just he didn't I didn't ask him for an explanation. He said that he was, for efficiency reasons, and he did mention the fact that he had a lot /AP

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of business dealings with this firm in Manchester, and for that reason he was going to conduct his business through them.

Q. And so it wasn't because he or you were unhappy with Mr. Vaughan in any way?

A. I can only speak for myself. I wasn't; whether he was or not, you have to put that question to him, but he didn't indicate to me that he was.

Q. Have you had any contact with Kevin Phelan since Mr. Aidan Phelan wrote to you saying that he would now handle the Cheadle property on his own?

A. No.

Q. Do you know whether Mr. Aidan Phelan contacted him to tell him that he was now going to handle the moving on of that property himself?

A. I don't know.

Q. I want to look at the documents that were discussed in the Opening Statement and that were introduced into the evidence by Mr. Davis yesterday. I just want to make sure that you have got exactly the same documents as I have. Do you have a book of

A. Yes.

Q. In fact I am looking at leaf number 2, which is not the leaf on my book that pertains to you, but I think you have the same book as me?

A. Are we

Q. I think we have the same book.

A. Are we talking about the letters?

Q. Yes, we are talking about the letters, yes.

A. I'll find them.

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Q. I think you may have the same letters in your own divider.

A. Yeah.

Q. I think you have, in fact. Now, the first document is document A. I just want to go through each one of the letters so that we have a way of describing them that we can agree on, so that there won't be any confusion in any questions I have to ask you and answers you have to give me.

Document A is, as you can see, an office copy of a letter that was apparently sent to Kevin Phelan on the 12th July, 2000. And you are familiar with that letter as a result of it having been brought to your attention by the Tribunal and from having been discussed with your solicitors?

A. Yes.

Q. That letter was produced, I think, to the Tribunal by

Mr. Kevin Phelan by Mr. Christopher Vaughan, sorry.

If you go to document B, document B is the top copy of that letter, document A, and that was produced to the Tribunal by Kevin Phelan, who was the addressee of the document. You understand that?

A. Yes.

Q. So the solicitor would have sent, or so we understand, or the Tribunal was certainly led to believe, that document B was sent to Mr. Kevin Phelan by Mr. Vaughan, and document A was retained by Mr. Vaughan as his file copy. You understand that?

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A. Yes.

Q. Now, we have been calling that document, document B, the short form top copy of document B.

And if you go to document C. This is the document that was made available to the Tribunal initially by Mr.

Colm Keena. It's again addressed to Mr. Kevin Phelan.

Like the last document it's dated 12th July, 2000. And

again it's about Saint Columba's Church, and the two

documents are similar except that in document C, there

are two additional paragraphs, or there are at least

changes in two paragraphs that don't appear in document

B. You understand that?

A. Mm-hmm.

Q. And we have been calling document C the long form top

copy of the letter of the 12th July, 2000, because it's longer than the other one.

I want to go through the same exercise in relation to the letter of the 5th September. Document D is the file copy retained by Mr. Vaughan of a letter which he wrote on the 5th September to Mr. Kevin Phelan. That document or a copy of that document was furnished to the Tribunal by Mr. Christopher Vaughan.

The next document is a top copy of that office copy, which was furnished to the Tribunal by Mr. Kevin Phelan. It's document E, and we are calling that the short form top copy of the letter of the 5th September 2000.

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If you go on to the next document, which is document F, the document that was provided to the Tribunal, or a copy of which was provided to the Tribunal by Mr. Colm Keena, that has been called the long form top copy of the letter of the 5th September, 2000.

These documents were sent to your solicitors earlier this year, and they were drawn to your attention by your solicitors, and no doubt you will know from the correspondence that your solicitors had with Mr.

Vaughan how seriously they took the matter. And I take it you recognise the changes, or the differences, I should say, between the long form and the short form

top copies

Now, on the 12th June this year, your solicitors, Messrs. Kelly Noone, wrote to Mr. Christopher Vaughan drawing his attention to queries that had been addressed to you concerning these documents. Do you have a copy of that letter? It's document 26 in leaf 1.

A. Back to the front?

Q. Yes.

A. This is the letter that my solicitor sent to Christopher Vaughan?

Q. Yes.

A. At the request of the Tribunal?

Q. Yes. Take your time. It's numbered, on my leaf number 1, as document 26.

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A. Just give me a moment.

Q. Sure, take your time.

A. Yes.

Q. Now, I don't want to go into all the correspondence that Mr. Davis read into the record yesterday, but you'll recall that that letter was written by your solicitors on foot of correspondence he had received from Mr. Davis?

A. Yes.

Q. And just very briefly, because I want to refer to one

or two parts of it, I think I should, in fairness to you, read out the whole letter.

Your solicitors wrote to Mr. Vaughan as follows:

"We write to advise that we act on behalf of Mr. Michael Lowry in relation to matters under investigation by the Tribunal of Inquiry (Payments to Messrs. Charles Haughey and Michael Lowry).

"Mr. John Davis, solicitor for the Tribunal, wrote to us on the 25th April and furnished with his letter copies of correspondence and communications with you, and amongst the documentation furnished provided us with copies of letters issued by you to Mr. Kevin Phelan, solicitor, dated 12th July and 5th September 2000. We have subsequently had a meeting with counsel for the Tribunal, and it has been made very clear to us that as you have not provided the Tribunal with a meaningful explanation for matters under inquiry, there /AP

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is considerable potential for very negative conclusions affecting your conduct in the matter and as a direct consequence could unfairly impact on our client.

"On Wednesday 25th July, 2001, Mr. Aidan Phelan gave evidence to the Tribunal of Inquiry, and in the course of this evidence, Mr. Phelan informed the Tribunal that in September of 1999, Mr. Lowry approached him, having identified a property in the UK which he believed had



considerable potential. Mr. Phelan arranged finance to assist in this acquisition with GE Capital Woodchester Bank, and it was further agreed that a company known as Catclause Limited would be used for the purpose of acquiring the property.

"We feel that it is important to point out to you that as we understand it, your office acted in the incorporation of Catclause Limited and the first directors of the company were detailed and registered as being Michael Lowry and his daughter. We emphasise this point as it has been suggested in evidence before the Tribunal that there was attempts to disguise the involvement of Mr. Lowry with the transaction.

"Catclause Limited was identified to GE Capital Woodchester Bank as the acquiring mechanism, yet incredibly it appears that the bank did not see fit to make even the most basic inquiry as to the parties behind the company which would readily have identified Mr. Lowry's involvement.

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"In the course of his further evidence, Mr. Phelan described a situation which arose relating to the inability of Mr. Lowry to provide a suitable guarantor for the loan, and as this arose subsequent to GE Capital Woodchester Bank having made the funding available, a highly embarrassing situation arose for

Mr. Phelan, and in February 2000, Mr. Phelan advised the bank that he was personally responsible to the bank in respect of the loan, and in the course of his evidence, he further advised the Tribunal that at that point in time, you were instructed to hold the property in trust for Mr. Phelan."

In fact, I don't know if that was the precise instruction or the tenor of your own evidence, but you did tell the Tribunal a moment ago that you had a telephone conversation with Mr. Vaughan at or around that time, in January or February of 2000, and you told him he told you that you were out of the transaction; isn't that right?

A. What he told me confirmed the instruction that he received from Aidan Phelan, yes, which had effectively taken me out of it; Aidan Phelan had taken it over.

Q. "From the evidence and surrounding circumstances, it seems abundantly clear that by February of 2000, Mr. Lowry was no longer involved in the transaction and Mr. Phelan had adopted the position of personal responsibility in the matter with the bank and had informed you of the situation.

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"In light of this, our client is at a total loss to understand the content of your letters of the 12th July 2000 and the 5th September 2000 to Mr. Kevin Phelan.

"Leaving aside the fact that there appears to be two versions of each letter in existence, we would request that you let us have a full explanation as to why reference was made in the letter of the 5th September, and we quote: 'Michael wants to own the property in his own name for a month prior to the sale', and furthermore, why in the letter of the 12th July one version records 'This property was purchased in my name as trustee for Aidan Phelan' and the other version records 'was purchased in my name as trustee for our client'.

"We would request that as a matter of extreme urgency you let us have an explanation of the foregoing."

Now, I'd suggest that nothing could have been clearer from that letter but that your solicitors were taking an extremely serious view of this matter, and they wanted Mr. Vaughan, as your solicitor in the matter up until July 2000, as your continuing solicitor in another matter, to explain himself and to explain how he could have used your name in relation to matters and transactions under his control when you were no longer involved in them. And what was also very serious was that of course evidence had been given to this Tribunal

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that you were no longer involved in these transactions.

Your solicitor's own view of the matter was that you

were at a total loss to understand the situation, and

is that your position still?

A. Absolutely.

Q. Now, could we deal firstly with the letter of the 12th

July. Initially what I'll be referring to is the long

form and short form top copies of this letter.

In the long form top copy, the, if you like, offending

content is contained in the second paragraph. It says

"You will recall that this property was purchased I"

I think that should mean in "my name as trustee

for our client. I have only appreciated upon reading

the policy schedule the conditions as to the property

whilst it is unoccupied. "

The final paragraph in the long form is not contained

in the short form and is as follows: "I seem to recall

when the lending process was being completed that the

lender was going to require a six monthly report on the

marketing of the property. Could you please let me

have details so I can deal with this. I think the same

will apply to Mansfield as well."

Now, can I ask you to look at Mr. Vaughan's letter to

your solicitors in response to their letter seeking an

explanation for what was contained in the second

paragraph of that long form of the letter of the 12th

/AP

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July. The document is document number 30 in tab 1; do

you have that?

A. Yeah.

Q. Mr. Vaughan, in that letter, in response to your solicitor's letter, states: "I am not going to reiterate all the facts of my involvement in the acquisition of 377 Wilmslow Road, Cheadle known as "Saint Columba's Church" and Hilltop Farm, Chesterfield Road, Glapwell, known as the "Mansfield property". These have previously been explained in great detail in correspondence and to the Tribunal in private session. The following issues, however, need to be put into proper context.

"I was first instructed by Mr. Kevin Phelan, who was not a solicitor but an agent, on behalf of Michael Lowry, in respect of the purchase of the Mansfield property in September of 1998, and completion of the purchase of that property took place on the 18th March 1999.

"I was instructed in respect of the purchase of Saint Columba's Church in September of 1999, again by Mr. Kevin Phelan on behalf of Michael Lowry, and the completion of the purchase of that property took place in December of 1999.

"As a solicitor, my practice deals with purely non-contentious matters, the vast majority of which are

/AP

commercial and conveyancing transactions similar to the purchase of the Saint Columba's Church and the Mansfield property.

"The only unusual factor relating to the purchase of these two properties is that following the exchange of contracts, the solicitors acting for the vendors in both of these properties had occasion to serve notices to complete because I did not receive the completion funds on the due date.

"Kevin Phelan's intentions on both sites was to have discussions with the relevant planning authorities with a view to obtaining planning permission within the purchase process so that a sale of a particular property could be 'back-to-back' with the purchase in an attempt to effect a positive cash flow.

"Both before and after the purchase of these two properties, my practice has dealt with other similar transactions.

"Prior to being instructed by Michael Lowry through his agent Kevin Phelan, I had never met him or been instructed by him in any other transaction. Further, I have not been instructed by him since, I do not have any current contact with him, and I do not regard him as a current client of mine."

That seems to confirm, by the way, that he wasn't

/AP

involved in the Vineacre transaction, doesn't it?

A. Yes.

Q. "Likewise with Aidan Phelan I had been involved in the acquisition of Doncaster Rovers Football Club, but all the negotiations relating to that transaction were conducted by Kevin Phelan, and I did not even meet Aidan Phelan until after the transaction had been completed.

"The instructions relating to the purchase of the property in Luton by Beechwild Limited were again given to me by Kevin Phelan. I do not recall ever meeting Aidan Phelan in respect of this transaction, although it is clear from my file that I spoke to him about it on the telephone.

"I am not currently instructed by Aidan Phelan in respect of any other matter, and although I am still the company secretary of Doncaster Rovers Football Club Limited, that company, although not dormant, is merely a holding company for the leases on the football ground upon which the club plays I have no involvement whatsoever in the club itself.

"I hope this explains the background to my involvement in the two particular conveyancing transactions in which the Tribunal are interested, namely the acquisition of Saint Columba's Church and the Mansfield site, which I reiterate were very ordinary transactions.

/AP

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"I do not hold the deeds of either property, which are either with Aidan Phelan or any other solicitors instructed by him. "

He says: "Although these two transactions appear to be of an enormous amount of interest to the Tribunal, so far as I am concerned (without in any way wishing to appear discourteous to the Tribunal) they were ordinary transactions representing a fairly small part of my work at that particular time.

However, I would like to say that:

"Both transactions were somewhat confusing and difficult because:

"1. Kevin Phelan acted for the purchaser of the Mansfield property and had a very close relationship with the vendor and her agent.

"2. Because Kevin Phelan acted for both Aidan Phelan and Michael Lowry and was involved in other matters as well, it is very difficult when speaking with Kevin Phelan over the phone to know whom he was representing at any one time, especially as any telephone conversation could cover a number of different matters.

"This certainly caused confusion on various occasions which is why there may have been more than one version

/AP

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of a document prepared by me because the first may have been prepared by me following a misunderstanding of my instructions.

"3. There was constant pressure from Kevin Phelan to hold up exchanging contracts for the purchase of the two properties, pending him making planning inquiry and looking for new purchasers, to see if added value could be achieved on a site, with the objective of completing a purchase practically simultaneously with the completion of a sale on to a new purchaser.

"4. Kevin Phelan was constantly telephoning my office, my home and my mobile telephone, putting my staff and myself under additional pressure.

"5. So far as I was concerned, Michael Lowry relinquished any claim to ownership of Saint Columba's Church in early 2000, and certainly by February of 2000. However I was well aware that Michael Lowry was honour bound to Aidan Phelan to help achieve a sale of Saint Columba's Church. By implication, so was Kevin Phelan as Michael Lowry's agent.

"In your letter you mentioned evidence given by Aidan Phelan to the Tribunal. I cannot comment on that as I have neither seen a transcript of that evidence nor was I present at the Tribunal when it was given.

"However, I confirm that I acquired on behalf of

/AP

Michael Lowry at the request of his agent, Kevin Phelan, an "off the peg" company called "Catclause Limited" from Messrs. Jordans, the company agents.

"Michael Lowry and his daughter were registered as officers of that company. I cannot imagine now anyone could believe that Michael Lowry was trying to disguise his involvement with this company because Companies House in England and Wales is an open, public register, and information is easily accessible to anyone.

"You indicate that I have confused Aidan Phelan and Michael Lowry. This is not unexpected, bearing in mind what I have written above".

I just want to stop there for one moment, because I am going to come back to the whole letter in a minute, once I have finished reading it.

But can you help me, because I can't find any indication in Messrs. Kelly Noone's letter which suggests that Mr. Vaughan has confused Aidan Phelan and you. Am I right in that?

A. The sequence of events

Q. But is there anything in the Kelly Noone letter?

A. That what?

Q. Is there anything in the Kelly Noone letter maybe I have missed it which says "Mr. Vaughan, you have confused Aidan Phelan and Michael Lowry"?

/AP

Do you understand me?

A. What's the question?

Q. I am asking you to agree with me, or disagree with me

if you like, that there is nothing in the Kelly Noone

letter to the effect that Mr. Vaughan has confused

Aidan Phelan and Michael Lowry.

A. But it was Mr. Vaughan, obviously, that wrote that

letter, not Kelly Noone.

Q. I appreciate that. He is writing his own letter. In

his own letter, he says "You indicate that I have

confused Aidan Phelan and Michael Lowry." You see

that?

A. He is obviously confused again.

Q. That's not contained in the letter Kelly Noone wrote;

isn't that right? There is no statement to that

effect?

A. If you say so. I haven't looked at it in that detail.

Q. Do you know, did you have any conversation with him

about this?

A. With who?

Q. With Christopher Vaughan.

A. No. The sequence of events was that the first, if I

could deal, if you wish

Q. We'll go on to the end of the letter, if you didn't

have a conversation with him about it. We may find out

how he formed that impression from somebody else.

"However, I was instructed that the Revenue would

expect that any site should be owned by an investor personally to minimise any Capital Gains Tax liability.

/AP

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Therefore the objective was correct, but the name was stated incorrectly by me. I would put this down to either a simple error or lack of concentration. Kevin Phelan complained to me over it, and I simply corrected it.

"With regard to your reference to the duplicate letters as mentioned above, I regularly faxed transmissions to Kevin Phelan throughout our whole working relationship.

"If he then corrected something on receipt of a fax, I would have sent him the amended version and kept that hard copy on my file, but probably not the first version of the fax. Kevin Phelan would therefore have two versions of the same letter and I would only have the final version.

"I have already explained this to the Tribunal clerk, and Kevin Phelan has confirmed my view of what I think occurred.

"I have been subjected to a huge amount of pressure, inquiry, discussion and speculation about these transactions from various bodies including the press.

"I have also been given an equally large amount of information about situations, matters and characters of which and of whom I had no previous knowledge

whatsoever, whilst the two conveyances transactions were taking place.

/AP

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"For example, I have still never met or spoken to Denis O'Brien or indeed had any idea of who he was prior to the Tribunal asking me for information about these two conveyancing transactions!

"I have given this matter some considerable thought and taken advice and I am firmly of the opinion that as a witness before the Tribunal my evidence would be totally and completely worthless."

He then goes on to deal with why he couldn't attend the Tribunal as a witness.

Now, presumably when your solicitors wrote to Mr. Vaughan seeking, as they put it, a full explanation for this, you were hoping that you'd get something which would explain two things to you: firstly, why there appeared to be two versions of these letters; and secondly, as your solicitors pointed out, something that would explain the content of the portions of the long form letters that were not in the short form letters. Would that be right?

A. That's correct.

Q. So when you got the letter from Mr. Vaughan, you were hoping this is going to explain everything?

A. Well, obviously we were waiting for his response, yes.

Q. Now, can you tell me, firstly, do you regard his letter as an explanation of what happened?

A. Well, if I could take it in the first instance and say

/AP

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to you that I was never in receipt of those letters. I was not aware of the existence of those letters. I had no knowledge of those letters until such time as they were forwarded to my solicitor by the Tribunal.

I had a discussion with my solicitor, and as always, we agreed to do what the Tribunal requested us to do, which was to write to Christopher Vaughan and ask him to give an explanation. We received a lengthy response from him, and we submitted that to the Tribunal.

Q. But did you regard the response which, as you say, is a very lengthy response as containing an explanation?

A. Yes, he has given, obviously, an explanation.

Q. Your solicitors asked for a full explanation. Can you tell me what parts of his letter contain explanations for the parts of the long form letters that we were talking about a moment ago? We were talking about the 12th July letter, and I think if we just take the portion of that letter that was mentioned by your solicitors is the part that says "You will recall that this property was purchased in my name as trustee for our client", and that appears to be you. Can you tell

me, where does Mr. Vaughan provide an explanation for how that letter came to be in existence?

A. My reading of the letter is that Mr. Vaughan has explained to the best of his ability; I can't go any further it's his job to explain what happened, and in my view he has made an attempt to do that. It's not for me to judge whether or not it's satisfactory; that

/AP

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is a matter for the Tribunal to make a decision on. He has put his letter to us, and we have forwarded his letter in its entirety to the Tribunal.

Q. Well, would you agree with me that there doesn't seem to be anything here that specifically explains how that passage came to be in the letter, in the long form of the letter of the 5th July?

A. Well, he has confirmed, which is confirmation of the evidence that has already been given to the Tribunal by a number of people, including myself, that I was out of that property transaction in January/February. He has confirmed that in his letter back to you. He has confirmed that the property was purchased in the company name of Catclause; that I was publicly a director and my daughter was a director of that company. I gave my home address, or my Abbey Road address, Thurles, as the registration for my directorship and Lorraine's directorship of that

company.

And I think he makes a good point that that isn't the act of somebody that was trying to hide something, and in references to the letters, he goes on to say that he was confused. Now, I am not happy; I am not happy that there is that there was two versions of one letter or two letters in existence. I am not happy with it, and we communicated that to him through my solicitor, and he has given his response. And as I said, it's a matter for the Tribunal to make a decision on that response.

/AP

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Q. He has said to you, that you correctly pointed out, that he was quite satisfied that you were out of this transaction from early 2000, and certainly by February. All the more reason, therefore, why you would be looking to his letter to contain some explanation for a letter containing a reference to you in connection with this property in July of 2000, where that letter was written by the man who says you had nothing to do with it in July of 2000.

And what I am saying to you is: Where does his letter contain any explanation to that effect? I want you to have an opportunity to point out to me where it contains something that explains that, because I can't find anything in here that explains that.



A. I have as I said, I have no comment to make other than to say that I have done everything we possibly can to assist the Tribunal. We have written to Mr.

Vaughan, we have got a lengthy reply, and that response is obviously his explanation. And I can't force anybody to write something other than what they feel comfortable writing, and obviously he was comfortable with that response himself.

Q. You said a moment ago that you were not happy with this situation; isn't that right? And I can well understand why, in light of the evidence you have given, you wouldn't be happy; because here is a suggestion that evidence given by you about a transaction is being contradicted by documents produced by written by your solicitor. Isn't that right?

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A. And in his explanation to you, he confirms that my evidence was correct on the first day. He is saying that first of all, can I repeat, because obviously this is important can I say first of all, and I repeat, that I have and had no knowledge I had no knowledge of those documents that have been put before me. I had no involvement in drawing up those documents. Those documents were not served on me or issued to me at any stage by anyone other than when they were brought to my attention by the Tribunal.

When they were brought to our attention, I consulted with my solicitor, and my solicitor carried out the requests that were given him by the Tribunal. And in response to that, we got a lengthy letter from Mr. Vaughan which confirms my position on it.

Now, the reference, if it is to me, I don't know who the reference to "Michael" is, but if it is to me, if that reference is to me, it is obviously wrong, and he made a mistake.

Q. Do you think that's what he is saying, that he made a mistake?

A. It's not for me I cannot be judgmental in relation to the response that he has given. It's a matter for the Tribunal to make a decision on that.

Q. You are not happy with it. Are you happy with the explanation?

A. Am I happy with the explanation? I am happy that we sought an explanation, and I am happy we got a detailed

/AP

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response from him. It's not a matter for me to say whether or not I am happy with it. But I am happy that he has confirmed my position, which is

Q. But that's not the question the Tribunal asked you to look into, Mr. Lowry. You have indicated you'd do whatever the Tribunal has asked to you do. Now, the Tribunal was quite satisfied that from earlier

information made available by Mr. Vaughan, he had stated unequivocally that you, on one occasion though not on another, that you had ceased to have any role in this Cheadle transaction from January/February of 2000 onwards except your moral obligation, and that didn't involve you in anything, as you confirmed to me earlier. We know that

A. That is the correct position.

Q. In the teeth of that, a letter has come to light which suggests that you did have an involvement. When that letter came to light, the Tribunal brought it to your attention so that you could take whatever steps you saw fit to seek an explanation from your solicitor as to what he was doing. And your solicitor has written back to you, and I suggest that he has written back to you without an explanation. And what I want to suggest to is that the situation is now worse than it was before the Tribunal brought this matter to your attention, because your solicitor has failed to come up with an explanation.

A. My solicitor in his response has confirmed a number of key points, and in fact has confirmed the evidence that I have given to this Tribunal, which is the factual

/AP

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position. And the factual position is that that property was purchased in the name of a company,

Catclausse Limited, which was openly and publicly registered in my name and my daughter's name. He has also confirmed that when the guarantor didn't deliver, that Aidan Phelan took over the property, took over responsibility for the loan, and that I was out of it in January or February. That's confirmed in his response back to the Tribunal, and I gave that response to the Tribunal, and obviously that is now on the record.

Q. You were provided with all of the correspondence that the solicitor to the Tribunal had with Mr. Vaughan; isn't that right?

A. That's correct.

Q. And that included one of Mr. Davis' first letters to Mr. Vaughan after Mr. Davis first drew to Mr. Vaughan's attention the existence of these documents; isn't that right?

A. Correct.

Q. If you look at document 9A, you'll find an account of a telephone conversation between Mr. Davis and Mr. Vaughan. This is a letter of the 25th March, 2002, in file or in leaf 1.

A. In the first

Q. In the first leaf, yeah, document 9A.

CHAIRMAN: I don't know if the screen might be easier, Mr. Lowry; I find it easier to work from.

/AP

MR. HEALY:

Q. Do you want to follow it on the screen, do you?

A. Yeah.

Q. In that letter, Mr. Davis is writing to Mr. Vaughan on the 25th March, 2002, and he said

"Dear Mr. Vaughan, I refer to our telephone conversation of Tuesday last.

With this letter I am enclosing further copies of the documents we discussed on the phone, namely

1. Your file copy of letter dated 5th September, 2000." That is the short form office copy of that letter.

2. A copy of a letter you issued from your office on the 5th September, 2000." And that is the long form top copy of the letter of the 5th September, 2000.

3. Your file copy of letter dated 12th July, 2000.

4. A copy of a letter you issued from your office on the 5th July, 2000.

You will recall that we discussed the divergence between the office copy and the final issued letter in each of these cases. You felt that the differences were probably due to the fact that you had expanded on the drafts when issuing the final letters."

Now, I just want you to understand what point Mr. Davis was making at that stage. Mr. Davis was drawing Mr.

/AP

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Vaughan's attention to the short form office copy that he had provided the Tribunal with of the letter of the 5th September. That, I think, is called document A.

Then Mr. Davis was then bringing to Mr. Vaughan's attention document C, which is the long form top copy of that letter. Do you see that?

A. Mm-hmm.

Q. Now, with regard to the other two letters, he again brought to Mr. Vaughan's attention Mr. Vaughan's office copy of the letter of the 12th July, which was the short form of that letter, and he also gave him a photocopy of the long form of that letter, which I think is document F.

Do you follow me in relation to these documents now, so that we are not at loggerheads over them?

A. Yes.

Q. And then Mr. Davis referred to the discussion he had with Mr. Vaughan, and Mr. Vaughan said "When we discussed the divergence between the office copy and the final issued letter, in each of these cases you felt that the differences were probably due to the fact that you had expanded on the drafts when issuing the final letters."

So the explanation he got from Mr. Vaughan at that stage was the one that the long form of the letter is much longer than the short form office copy that I

retained, that I probably expanded on the short form when sending a copy out to the addressee of the letter.

/AP

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A. That was over the telephone?

Q. That was over the telephone. That was the explanation that was given?

A. (Nods head.)

Q. Now, would you agree that that's a very unusual explanation as in relation to how a solicitor would conduct his practice?

A. I can't speak

Q. Would you agree with that?

A. I can't speak for Mr. Vaughan or for Mr. Davis. I am not privy to that conversation.

Q. This was your solicitor

A. I am not going to comment on the conversation.

Q. I am going to ask you to comment on whether you think this was the type of conduct you'd have expected from your solicitor, in terms of efficiency, even.

A. I have no comment to make on my solicitor's comment to your solicitor, which is obviously a private call between both of them.

Q. The Tribunal is going to consider this information, Mr. Lowry, and you should have an opportunity to comment on it if you like.

A. Well, I don't wish to comment.

Q. You have no desire to make any comment on it?

A. No desire.

Q. So you have no desire to make any comment on the fact that your solicitor issued the long form of the letter of the 12th July in a totally different form to the office copy he retained himself, according to his first explanation?

/AP

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A. I have already made a comment in relation to both letters. And what I have said, and I repeat, that I had no knowledge of them. I never received them. And I requested

Q. We know that, Mr. Lowry. That is not the issue

A. And it was for Mr. Vaughan to give you an explanation. He feels that he has given the Tribunal an explanation in a detailed response to you, or to us. We passed that on to you.

Q. Well, now, that was the first explanation he gave to Mr. Davis in his letter, or in his telephone conversation. We have had no further letter from Mr. Vaughan in any way clarifying that explanation. But in the letter he wrote to you, or to your solicitors, purporting to give an explanation as to what happened, he makes no reference to this practice he may have had of changing letters when they went out to the addressees to which they were being sent. Do you



notice that?

A. Obviously it's a fact.

Q. The only thing that approaches an explanation in his letter I think is contained on the fourth page. And if you go to the page that begins "However, I confirm that I acquired..."

Could you go down to "With regard to your reference to the duplicate letters..." Do you see that?

A. Yes.

Q. "With regard to your reference to the duplicate letters as mentioned above, I regularly faxed transmissions to

/AP

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Kevin Phelan throughout our whole working relationship.

If he then corrected something on receipt of a fax, I would have sent him the amended version and kept that hard copy on my file, but probably not the first version of the fax. Kevin Phelan would therefore have two versions of the same letter, and I would have only the final version."

Does that seem to you to make any sense?

A. That is his explanation.

Q. Does it make any sense to you?

A. I am sure it could happen. I don't know. I can't comment on it, because that's a matter for Mr. Vaughan to explain himself.

Q. You know that Mr. Kevin Phelan has written to the

Tribunal, although he has not given evidence, saying that he doesn't have any of the long form letters. You are aware of that from yesterday's evidence?

A. I am aware of?

Q. The fact that Mr. Kevin Phelan has said that he doesn't have any copies of the long form letters; that he doesn't, in other words, have the letters that Mr.

Vaughan says he should have.

A. I am not privy to that. I am sure my solicitors have got whatever correspondence is there.

Q. I want you to understand what I am saying. Maybe I am not making myself clear. Mr. Vaughan says that he would send letters to Kevin Phelan. "If Kevin Phelan then corrected something on receipt of a fax, I would have sent him the amended version and kept that hard

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copy on my file but probably not the first version of the fax. Kevin Phelan would therefore have two versions of the same letter, and I would have only the final version."

What he is saying is that Mr. Kevin Phelan should have the long form and the short form of each of the two letters we described a moment ago. Isn't that what he is saying?

A. Yes.

Q. Well, what Kevin Phelan has said is that he doesn't

have the long form and the short form of each of the letters; that he only has the short form.

A. Is there an explanation for why he hasn't? I don't know. You'll have to ask them.

Q. You have no comment to make on that?

A. Pardon?

Q. You have no comment to make on it?

A. It's possible he disposed of it at the time; I don't know.

Q. Can I ask you to look at the long form again of the letter of the 12th July, document C. Mr. Vaughan says in the second paragraph "You will recall that this property was purchased in my name as trustee for our client." Now, that's a reference to you, isn't that right?

A. "You will recall that when the..." Which property is this? Saint Columba's, yes.

Q. Cheadle. Isn't that right?

A. "The lender was going to..." which

/AP

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Q. "You will recall that this property was purchased in my name as trustee for our client." The Cheadle property was purchased for you; isn't that right?

A. The Cheadle property was purchased, yes, for Catclaus, which I was the director and owner of, myself and my daughter.

Q. So what is stated in the long form is correct?

A. Pardon?

Q. What is stated in the long form of the 12th July, 2000, letter was correct?

A. If he is saying that the property was purchased for me, yes, in Catclause, yes, that's correct.

Q. So what's contained in that letter is absolutely correct, in the long form?

A. I presume so, yes.

Q. Well, do you agree, or don't you agree?

A. I agree that he purchased the property.

Q. And what he stated in the long form of the letter is absolutely correct. "You will recall that this property was purchased in my name as trustee for our client." It was purchased for you. The vehicle you were going to use was Catclause, but it was purchased for you; isn't that right?

A. That's correct.

Q. Now, can you go to the short form of that letter. Do you see the second paragraph of that letter: "You will recall that this property was purchased in my name as trustee for Aidan Phelan"?

A. That's obviously why he is asking we are asking him to explain.

/AP

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Q. That's incorrect?

A. That's incorrect.

Q. That's incorrect?

A. Yes.

Q. That document was furnished to the Tribunal by Mr. Christopher Vaughan as a document which represented the true state of his file and the true state of the dealings he had in connection with this property; isn't that right?

A. That's correct.

Q. But it's wrong; it's incorrect?

A. The correct position from my perspective, irrespective of what correspondence he has given to the Tribunal, is yes, that property was purchased for me in the name of Catclause, which was registered with directors myself and Lorraine.

Q. What possible explanation could there be for changing the second paragraph of the long form of that letter?

A. I can't I have no that's a question for Mr. Vaughan.

Q. I am asking you, is there any possible explanation?

A. No.

Q. The only explanation, I'd suggest to you, is to remove a reference to you from the documentation.

A. I cannot accept that. There would be absolutely no reason why that should be necessary or could be done or was done.

Q. One thing is absolutely clear: It was done.

A. By Mr. Vaughan? Mr. Vaughan already explained that he made a mistake and was confused. I can't comment any /AP

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further than that. It's a matter for him to put his explanation to the Tribunal, and it's a matter for the Tribunal to make a decision on that explanation. And if you

Q. Where has he said he made a mistake in relation to that?

A. Well, I think if you read the lengthy response that he gave, he is effectively saying that he got confused.

Q. A moment ago you said you couldn't find the explanation, but I cannot find the part of the letter Mr. Vaughan gave you where he says that that change was made in that letter because there was a mistake.

A. I am not saying that he I don't know what I am saying, that in general terms he gave you a response. He is effectively saying that I think he used the phrase, when I saw it up the last time, that he did something in error, or that he hadn't his concentration, I don't know, whatever his explanation is.

I can't explain for him. I asked him to explain at the request of the Tribunal. We sent him a detailed and I would have to I think you will accept that it was a letter, a no-nonsense-type letter which is

effectively asking him for a meaningful explanation.

He sent back a six-page response, I think it was

Q. Rambling all over the place but not dealing with the issues.

A. Well, I can't we asked him for it. We put the points to him, and you have got his response, and that /AP

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response is on the public record.

Q. He says that sometimes he would make contact with Kevin Phelan and Kevin Phelan would suggest changes in documents. Now, you might think that was an explanation for what happened here, but let's assume that it was what he was intending to convey to you and to the Tribunal, that he would contact Kevin Phelan about some of these letters, and Kevin Phelan would say "You have made a mistake", and then he would correct the mistake. So if he sent a letter to Kevin Phelan which would have said that "You will recall that this property was purchased in my name as trustee for our client", meaning you, he is now asking you to believe and this Tribunal to believe that Kevin Phelan said to him, (a), that's a mistake; sure this property was purchased for Aidan Phelan. The mistake is in the short form letter.

A. I have already said, Mr. Healy

Q. Don't you agree with me? It's not an explanation. How

could Kevin Phelan make the mistake that the property was purchased for Aidan Phelan when he knew himself, he must have known, he purchased it for you? Isn't that right?

A. He had to know that he purchased it for me because that's the facts of the case. And if he did get confused, and if he made a mistake, I simply didn't know about it. As I said, I wasn't aware of this documentation until such time as you presented it to me, and I have already said that I am not happy that there is two versions of it before the Tribunal.

/AP

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Q. And if Mr. Kevin Phelan asked Mr. Christopher Vaughan to change that paragraph, paragraph 2, and to put in the wording that is in the short form, "You will recall that this property was purchased in my name as trustee for Aidan Phelan", he wasn't correcting a mistake; he was stating what was an absolute falsehood. Isn't that right? Isn't that right?

A. The correct position I can't comment on what happened

Q. Is that correct or not? Was that not a falsehood? "You will recall that this property was purchased in my name as trustee for Aidan Phelan." That was a false statement.

A. I cannot comment on what happened between Mr. Vaughan



and Aidan Phelan

Q. I am not asking you to comment on it, Mr. Lowry.

A. You are. I am not able to do that because I wasn't privy, first of all, to what happened

Q. I am not asking

CHAIRMAN: Mr. Healy, I think he has accepted that the long form was correct and the short form was incorrect.

MR. HEALY: Yes, Sir.

Q. Could we go on to the letter of the 5th September for a minute. Go to the second paragraph of that letter.

A. This is his response to the Tribunal?

Q. No, the long form of the letter of the 5th September.

Just go to the it's document F. You might find it easier if you had a hard copy, would you?

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A. Okay, no, I can see here.

Q. I'll give you a hard copy if you want.

(Document handed to witness.)

Look at the second paragraph: "What I would like to do is to set up a timetable bearing in mind that Michael wants to own the property in his own name for a month prior to the sale to Thistlewood Estates."

Now, that paragraph doesn't appear in the short form of this letter. When you asked Mr. Phelan or asked Mr. Vaughan for an explanation of this, again I can't be clear as to what part of his letter contains an

explanation, but can you point me to any part of his letter that contains an explanation for that?

A. The only explanation that the only reference that I see to it is where he says he was getting instructions from Kevin Phelan, and that at times it was exceptionally confusing, and that he confused Aidan Phelan with me; I presume the "Michael" here refers to me, even though I can't be certain.

That's the explanation that he gave, that he got confused, and that he did make mistakes arising from the confusion. That's my understanding of his position.

Q. So let's just take this one step at a time. Are you saying that he was confused in relation to the 5th July letter as well?

A. I don't know. That's a matter for his that's a matter for Mr. Vaughan to make a decision. But I am /AP

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saying clearly, all I can give you is my position. And I have given evidence to this Tribunal, and it may be contradictory, but effectively Christopher Vaughan has underlined and confirmed the accuracy of my original contribution here in the response that he has given.

As to what happened in letters between himself and Kevin Phelan, I wasn't in possession of those letters.

They weren't copied to me. I simply don't know.

Q. Which do you think is the important part of the letter?

The confirmation that you weren't involved, or the attempt to explain the different versions and the references to you in the long form letters?

A. The only concern

Q. Which is the important part of the letter to you?

A. Obviously all of the letter.

MR. O'DONNELL: What difference does that make to anything? This is, with respect, a pointless exercise.

Mr. Healy is putting questions to Mr. Lowry on an inconsistent basis that there either is an explanation or there is not an explanation in the letter. He has to make it clear which is the case he is putting. It seems quite clear there is an explanation which he doesn't accept. The memorandum of information that is sought from Mr. Lowry asks for information in relation to Mr. Lowry's knowledge of these documents. Now, that evidence can be given in ten minutes. He has given his evidence in relation to that, and he is now being asked to comment on matters in relation to which he can give no evidence of knowledge.

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CHAIRMAN: Well, there is a balance, I think, Mr. O'Donnell, between giving Mr. Lowry and indeed yourself at any stage observations or questioning in an opportunity to add any further matters that may

explain apparent discrepancies. I accept that there are limits to the degree to which your client should be asked to speculate on matters that he has said he was not privy to.

And I think, Mr. Healy, I'll take the view that you should be reasonably limited in the matters that you should put in this regard. But I think it's nonetheless important, since the Tribunal may have regard to some of these matters or apparent discrepancies, that Mr. Lowry is given an opportunity to add any further matter which may clarify these apparent inconsistencies.

Q. MR. HEALY: At the time this letter was written, on the 5th September, the only other property Mr. Vaughan was dealing with on your behalf was Mansfield; isn't that right?

A. Correct.

Q. And that property was in fact in your own name; isn't that right?

A. Yes.

Q. This letter was clearly written by somebody who felt, or who had been instructed, that you wished to own that particular property, Cheadle, in your own name for a

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month prior to the sale to Thistlewood.

A. It just simply doesn't make sense.

Q. And you didn't, certainly, give any instruction to that effect to Mr. Vaughan?

A. Absolutely not.

Q. And you didn't give any instruction to Mr. Vaughan to that effect with regard to any other property; isn't that right?

A. Correct.

Q. The only other property you might have been dealing with him the only other property you had in respect of which you'd have been giving instructions to him was Mansfield, and that was already in your own name?

A. Correct.

Q. At that time, the Cheadle property was being held by Mr. Vaughan as a trustee; isn't that right?

A. I don't I don't know the technical detail of it.

All I know is that it was when was this, in September?

Q. Yes. Of 2000.

A. Yes, I was gone out of it in January/February of 2000.

Q. But it was being held by Mr. Vaughan. We know that from evidence, and I think you may have given some evidence in relation to this. Mr. Vaughan was the person who was holding this property at this time?

A. I think that was evidence that was given by Mr. Aidan Phelan. He would have after January/February, all I know is that the property had passed on from me to Aidan Phelan. As to what Aidan Phelan's instructions

from there on were to Christopher Vaughan, I simply

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don't have access to it.

Q. Well, it certainly it's extremely unlikely that there would have been any reason for anyone to give instructions that a property was to be held in your name for a month prior to sale if you didn't have any ownership in the property; isn't that right?

A. That's the factual position; I did not.

Q. And the only basis upon which anyone might write a sentence like that, sensibly, is if you did have an ownership in the property; isn't that right?

A. Or the person who had the ownership on it, if it refers to that particular individual.

Q. Can you go to the last paragraph on the long form of that letter, where Mr. Vaughan says: "I have not written to Michael about this as I get concerned about correspondence going to him, but a copy has been sent to Aidan as he needs to keep the mortgage lender happy as to the loan that Michael took out."

Does that sentence make any sense, or that sentence, yes make any sense to you?

A. If the "Michael" referred to is me, it is clearly wrong.

Q. It suggests, doesn't it, that Mr. Vaughan is not happy about sending correspondence to you? That's what it

suggests, isn't it?

A. Mr. Vaughan should have had no reason whatsoever to have any concern about sending correspondence to me.

And I think at some point or other, the only concern he had he made the point himself in some I don't

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know which letter I read it in, but he corresponded with the Tribunal where he referred to the difficulty he had in getting access to me for correspondence because I was in Thurles, I was in Dublin, I was in different offices. And I think he made that point in the letter. I had never any difficulty with receiving correspondence from Christopher Vaughan, and I certainly have no reason to give as to why, if that comment refers to me, should be.

Q. What it seems to suggest is that "I get concerned about correspondence going to Michael, but instead I am sending a copy of this to Aidan" presumably meaning Aidan Phelan "as he needs to keep the mortgage lender happy as to the loan that Michael took out" indicating, as I see it, that he could rely on Aidan to communicate with you and to communicate with Investec Bank to keep them happy.

A. At that stage, as you know from previous evidence, I was out of it, and the loan had been taken over. And it was my understanding that Christopher Vaughan should

have been aware of that, but certainly the evidence and the information in the bank is to the fact that Aidan Phelan had taken responsibility for that loan at that particular stage, because I was gone since January/February, because my guarantor was gone. I couldn't satisfy the conditions of the loan. He had taken over the loan and the bank were aware of that. My understanding is that Christopher Vaughan was aware of that, but you'll have to ask Aidan Phelan about that.

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Q. This paragraph does, however, suggest that the writer of the paragraph had the impression that you were involved in this transaction at this time?

A. Well, if the writer was under that impression, the writer was wrong.

Q. And doesn't it also suggest that if the writer was under that impression, he didn't want the Tribunal to know that he was under that impression at that time by not giving that document to the Tribunal, or a copy of it?

A. I can't account for what Mr. Vaughan has written or said in that context. All I am saying is that if that's the impression that's in that letter and it refers to me, it's a mistaken impression.

Q. I want to look at both letters again. I think to do



this you are going to have copies in your hand;  
otherwise it could get confused. Could you look at the  
long form of the letter of the 12th July, and also the  
short form of the letter of the 12th July.

Now, I think you have to some extent suggested and Mr.  
Vaughan has to some extent suggested that the long form  
of this letter was written due to a mistake in some  
way. Is that

A. Pardon?

Q. Is that not correct?

A. Is what not correct?

Q. That the long form of this letter of the 12th July was  
in some way a mistaken letter that was written due to a  
mistake or due to confusion?

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A. What I am saying is that Mr. Vaughan, the way I read  
his response is that he made errors because he was  
confused. Now, as to which one or the other is wrong,  
all I can give you is what my position is, which is the  
factual position. As to what way that is interpreted  
in letter form from Mr. Vaughan is a matter that you  
have to address to him, and I have assisted the  
Tribunal in bringing that to his attention.

Q. If you look at the document B, which is the short form  
of the letter of the 12th July, 2000, that contains the  
paragraph that we mentioned a moment ago: "You will

recall that this property was purchased in my name as trustee for our client." If you look at the long form, it says "Dear Kevin"; do you see that? Underneath that, it has "Re: Saint Columba's Church", with an apostrophe between the "A" and the "S". Do you see that?

A. Yes.

Q. If you look at the short form, "Saint Columbas Church" is spelt without the apostrophe. The typeface is bolded. Do you notice that?

A. Mm-hmm.

Q. And there is no "Re" or semi-colon; do you see that?

A. Yes.

Q. In fact, if you go up a little further, you will see that the long form is addressed to Mr. Kevin Phelan, 106 Gillygooly Road, with "Gillygooly" spelt G-I-L-L-Y-G-O-O-L-Y, whereas in the short form it's spelt 106 Gillygooley Road G-I-L-L-Y-G-O-O-L-E-Y; do you see that?

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A. Yes.

Q. You then go down onto the address, to where after the words "County Tyrone" in the long form, you have no space, and then two capital letters, BT, a space, the letter 72, and then a space or the figure 72, a space, the figure 5 and the letters QA; do you see that?

If you look at the short form, there is a space after "County Tyrone". Then you have BT72 without a space, a space to the figure 5QA; do you see that?

A. Yes.

Q. Staying with the short form, you see that on the right-hand side, you have the date the 12th July. On the long form, you have the date the 12th July, but just above it you have a fax number, 01662 250 744.

Then you go down to the first paragraph: "I enclose copy letter and policy schedule relating to this property which has only just been sent to me."

Do you see that?

A. Yes.

Q. The first sentence.

On the long form, that sentence takes two lines, just as it does on the short form, but the word "only" is on the first line in the short form and on the second line in the long form; do you see that?

A. Mm-hmm.

Q. If you go on to the next paragraph: "You will recall that this property was purchased in my name as trustee

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for our client. I have only appreciated upon reading the policy schedule the conditions as to the property whilst it is unoccupied."

Then it goes on: "Could you please let me know as a

matter of urgency

"1. Have you managed to find a purchaser?"

Now, on the short form, "purchaser" is spelt with a capital P, and on the long form with a lower case P.

Then the next item is "If not, is there now a tenant in the house as discussed with you recently?" As you will see, in the long form, "tenant" has a lower-case T, and a capital T in the short form.

The next item is "Can you please ensure that the conditions be complied with immediately as the policy could be null and void and I could personally be liable for losses?"

And that's the same.

Then you have the final paragraph, which is not in the short form.

Then, on the long form, the words "Yours sincerely" are followed by a comma and seem to be centred or in the centre of the page, whereas on the short form they are

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on the left-hand margin. Also in the long form, the letter is signed "Christopher Vaughan", but there is no typing of the name "Christopher Vaughan" which is contained on the left-hand margin of the short form.

And it also appears that the short form may ultimately have been justified, i.e., or in other words, when finishing the typing of the letter, the typist put

straight margins on both sides of the letter, and that doesn't seem to be the case on the long form. Do you see that?

A. (Nods head.)

Q. Now, if, as Mr. Vaughan suggests, he simply made a mistake in the long form of that letter of the 12th July and was told or alerted about that mistake by Mr. Kevin Phelan, wouldn't you just expect one simple correction and not all those differences between the two documents?

A. Would I?

Q. Mmm?

A. Well, my solicitor we have never disputed the fact that there are two different letters, and there is no mistaking that.

Q. But it's not just that

A. And we brought that to his attention.

Q. It's not just that, Mr. Lowry. You brought to his attention that there were two different letters or two versions of letters between the same parties on the same date. And he gave a response or an explanation which, on one view, might be to the effect that this happened as a result of a mistake; that some mistake

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was drawn to his attention, and he corrected it.

What I want to suggest to you is that these letters are

different in a myriad number of ways, and that if the long form letter contained your mistake, that mistake would have been taken out, and otherwise the long form letter would have been the same as the short form letter. Wouldn't that be right? Isn't that what you'd expect, or anybody would expect?

A. Obviously what has happened here with those two letters is that the two letters were written not on the same day, and they were rewritten, for whatever reason he had.

CHAIRMAN: It was a completely separate typing operation. The words might be the same

A. That's staring everybody I mean, nobody we brought that to his attention. We gave him the copies of the letters and what have you, and we have his explanation. I can't speculate as to what he did or when it happened. Maybe it was different days. He is the only person, individual, that can explain it. And we have attempted to get him to explain it, and he has sent you a long, detailed response. And I can't comment on it any further than that.

Q. MR. HEALY: He sent you a long, detailed response?

A. Yes.

Q. Which you made available to the Tribunal?

A. Correct.

/AP

Q. And Mr. Vaughan was unhappy about the fact that you did that, but

A. That's correct. I think he made some comment about it.

Q. But isn't it also possible that if this letter is a totally different letter, in a sense that it was completely rewritten, isn't there a possibility that it was rewritten at a much, much later time and for a totally different purpose than to correct a simple error that was drawn to the attention of the writer by Mr. Kevin Phelan?

A. I can't, I don't you have to put that to Mr. Vaughan.

Q. If that were the case, that the letter was reconstituted at a different time altogether, wouldn't that suggest that there was a deliberate reconstitution of the letter?

A. A deliberate?

Q. A deliberate reconstitution of the letter.

A. Well, certainly if I can't comment on whether that happened or not, but certainly as my solicitor, he certainly would have had no instruction from me in regard to that.

CHAIRMAN: Do you want to pause, Mr. Healy?

MR. HEALY: Yes, Sir. Just one matter.

Q. When you met Mr. Vaughan, I think was it at the Regency Airport Hotel?

A. Yes.

Q. I think the first meeting was in

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A. Aidan Phelan's office.

Q. In Aidan Phelan's office, sorry. That was prior to that date; isn't that right?

A. Yes.

Q. On the 15th March?

A. Yes.

Q. Did Mr. Vaughan have his file with him?

A. When?

Q. At that meeting.

A. On the 15th?

Q. Yeah.

A. I didn't have a meeting with Mr. Vaughan. What happened at that particular meeting, I have given evidence to this effect already, that I received a telephone call from Aidan Phelan to say that a problem with the bank, Investec, had been brought to his attention; that the matter was going to be referred, he thought at that stage, to the Tribunal. And I couldn't understand how my reaction was, that's impossible; what has this to do with the Tribunal?

And he told me he'd be in the office that evening. I called to see him in the office that evening, and at that particular stage, I met him privately, and he told me that there was a problem with the bank and that



arising from that, that he was in the process of making a statement to the Tribunal in response to whatever communication he had from the bank or the Central Bank; I don't know which of them it was and Christopher Vaughan was there at that particular time,  
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but I didn't have any meeting with Christopher Vaughan at that stage. What they got on, or Aidan Phelan and Christopher Vaughan were obviously preparing themselves for their response to the Tribunal.

Q. Was he in the room with you at the same time?

A. Christopher Vaughan?

Q. Yes.

A. No, I just met him as I was there.

Q. I see. You had a meeting with him, I think, on the 16th in the Regency Airport Hotel?

A. That's correct, yes. That is correct.

Q. I think I may have misled you; it wasn't the day after you had the meeting in the Regency Airport Hotel?

A. It was a week later.

Q. It was a week later; you are correct. Did Mr.

A. It was actually more, I think.

Q. Was it?

A. (Nods head.)

Q. We can get the correct date.

Mr. Vaughan was present at that meeting. Mr. O'Connor,

your accountant, was present?

A. Yes.

Q. You were present?

A. Yes.

Q. Ms. Helen Malone was present?

A. The purpose of that meeting

Q. And Mr. Aidan Phelan was present; isn't that correct?

A. Yes. What happened

Q. Did Mr. Vaughan have his file at that meeting?

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A. I don't think he had a file. Well, he had something with him. I don't know whether he had a file, whether it was a full file or not, but he certainly had documentation with him, yes.

Q. Thanks.

CHAIRMAN: We will pause for lunch.

Just while it's still in my mind, Mr. Lowry, taking the 12th July letters, both in the I think we have agreed, though none of us are secretarial or typing experts, that it clearly appears to be a separate and different typing occasion. Just at the start of the second paragraph in both the short and the long form, you will note that it says "You will recall that this property was purchased in my name as trustee", but in fact there is, in both the short and the long form, there is the same rather silly typing error. You see

that there is a capital "I" instead of what obviously should have been a small "in", so it seems that it would seem unlikely to be coincidence. It seems that the same typing error was duplicated on the other typing undertaking. Does that seem to be the case?

A. Yes, I would say, yeah.

CHAIRMAN: Very good. We'll take up the conclusion of your evidence at two o'clock. Thanks, Mr. Lowry.

THE TRIBUNAL THEN ADJOURNED FOR LUNCH.

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THE TRIBUNAL RESUMED AS FOLLOWS AT 2 P.M.:

CONTINUATION OF EXAMINATION OF MR. LOWRY BY MR. HEALY:

Q. MR. HEALY: Mr. Lowry, we had gone through the various small differences between the long form and the short form letters of the 12th July. I now want to go into the differences of what I think you probably agree with me are of a similar kind between the long and short form of the letter of the 5th September. Each letter is on Christopher Vaughan's headed notepaper, taking the letter of the 5th September, the short form document, E. It's addressed to Kevin Phelan, 106 Gillygooley Road, Omagh, County Tyrone, BT72, 5QA."

Now, in each of these letters you will notice that "Gillygooley Road" is spelt with an E-Y at the end.

I think the first paragraph in each letter is the same.

Then you have the additional paragraph in the long form

which is not contained in the short form. And you go to the next paragraph, which begins "Could you therefore let me know...". Then you have three itemised matters.

In the long form, "What the current situation is with regard to the grant of planning consent for the proposed residential scheme." Then there is a question mark after that word "scheme" in the short form which is not contained in the long form.

I'll go through these, and you can stop me if I have

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misled you in any one of them; okay?

You go on in the long form "Who is going to submit and pay for the planning application and when will it be done". There is no question mark in the long form, but there is a question mark in the short form. On the long form, the second item is "Presumably the access will be dealt with at the same time as the planning application is submitted." There is a full stop, but on the short form, there is a question mark.

The third item is "Are Thistlewood undertaking a soil survey at the present time?" There is a question mark in the long form, and there is a question mark in the short form.

Then you have the additional paragraph in the long form, the second additional paragraph in the long form,

which is not contained in the short form. And it's as follows: "Do you know the identity of" I am sorry, I am not on to that paragraph yet. We have what is now the second-last paragraph on the long form, which is the last paragraph on the short form, and it begins:

"Do you know the identity of Thistlewood Estates clients". There is a full stop after "clients" in the long form, and there is a question mark after clients in the short form.

"I have done a company search against Thistlewood, and I enclose a copy herewith which says very little. Do

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you know who their actual clients are?"

Then you have the paragraph at the end of the long form which is not contained at the end of the short form:

"I have not written to Michael about this as I get concerned about correspondence going to him, but a copy has been sent to Aidan as he needs to keep the mortgage lender happy as to the loan that Michael took out."

Now, in the long form, you will notice that there is an asterisk in manuscript in the left-hand margin near the words "company search" and at the bottom. There is an reference to an asterisk and what looks to be the words "To follow", and that asterisk is not placed against "company search" in the short form, and there is no asterisk at the bottom of that page.

Once again I am drawing these various other differences between the two documents, the long form and the short form, to your attention so that you'll understand that a question that could be asked is whether, if the long form document was simply being corrected to take out two paragraphs, why would there be any need to redraft the whole letter? Do you understand?

A. Yes.

Q. And that is why I suggest to you that an inference that could be drawn, a reasonable inference that a member of the public might draw, is that the short form letter was not written at around the same time as the long form letter but was rewritten or reconstituted,

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perhaps, at some other time, perhaps at the same time as the letter of the 12th July was reconstituted. Do you understand?

A. You are putting that to me?

Q. I am suggesting to you that that's an inference that could be drawn. If you want to make a comment on it, you can.

A. Certainly, if you want to make that inference, I totally reject any suggestion or inference that I had anything to do with that. And again in relation to those letters, what I can say to you is that I have done what the Tribunal has asked me to do to date. You

have got an explanation from him. I am not entirely happy with it. You are not, obviously, happy with it, and if there is something that you'd like me to do, I'll willingly assist the Tribunal if I can.

Q. I thought we were having a bit of a debate this morning about whether you were entirely happy with it or not.

The Tribunal is certainly not happy, and you are not happy; you are not entirely happy with the response you are getting?

A. At the outset I said I am not happy that there are two versions of this letter

Q. But you are still not entirely happy?

A. How could I be?

Q. Do you recall that when the Law Society took this matter up with you or when the Tribunal took this matter up with you, it was suggested to you that because there were these very serious differences between the two documents and a suggestion that

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different versions of these documents had been created for an improper reason, that you, as the client, who was or could be affected by this, could tell the solicitor that unless you got an explanation that made you entirely happy, you'd have to take the matter up with the Law Society.

MR. O'DONNELL: If I understand where Mr. Healy is

going with this, perhaps he should be more precise about the way it was put to Mr. Lowry. I don't think it was put that way at all. I think he was asked to obtain an explanation from Mr. Vaughan, and in the event that the explanation of him not obtaining the assistance to which the Tribunal considered him entitled, he could complain the matter to the Law Society. Now, I think

MR. HEALY: That's correct.

A. On a point of clarification, you asked me to get my solicitor to make contact with him.

Q. Yes.

A. And as I understood it, after having a legal consultation with my solicitor, that in the event of we not getting an explanation, you were putting that forward as an option. We got the explanation. We sent it to you. And we heard nothing in response to it. I understand that at that stage you wrote directly yourself to Mr. Vaughan.

So if there is something else that you want me to do,

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please address it to me, and I will do everything I can, as I have done in the past, to assist the Tribunal.

Q. Thank you, Mr. Lowry. I think what the Tribunal asked you to do was to see could you get a meaningful



explanation, and I hope I am right in thinking that your solicitor in fact may have used that language as well. "We have subsequently had a meeting with counsel for the Tribunal, and it's been made very clear to us that you have not provided the Tribunal with a meaningful explanation for matters under inquiry."

You got explanations of kinds. You sent it to the Tribunal. The Tribunal wrote to Mr. Vaughan, and I think you were furnished with copies of that correspondence where the Tribunal said very clearly, "This is not a meaningful explanation". You are aware of that?

A. Yes.

Q. And you haven't taken the matter up since with him yourself?

A. What do you want me to do?

Q. Just from your own point of view, because I think you were told that very negative conclusions could be drawn about the conduct of this file and they might impact on you, wouldn't you think it was in your own interest to take the matter up again?

A. We were awaiting we as I said, we did everything that the Tribunal has asked us. We have got to the point now where I am asking you, what is it you wish me

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to do?

MR. O'DONNELL: Sir, I don't want to interrupt Mr. Healy, but in the interest of moving this on with some expedition, can I say that I am somewhat concerned with the suggestion that negative implications could be drawn from Mr. Lowry's point of view as a result of conduct of the file. The only logical circumstance in which that could arise is if Mr. Lowry instructed this be done, was in some complicity in this being done. If Mr. Healy wants to put that to Mr. Lowry, he should; otherwise it should not be left hanging.

CHAIRMAN: I think we can pass from the Law Society aspect, Mr. Healy.

MR. HEALY: I am going to come to the point that Mr. O'Donnell has drawn to your attention, Sir.

Q. Now, you gave evidence this morning that in January/February, 2001, you were satisfied that you were completely out of the Cheadle transaction. You were satisfied that Mr. Aidan Phelan had taken it over. You were satisfied that Mr. Christopher Vaughan was absolutely clear about this?

A. Correct.

Q. You had had a conversation with him on the phone?

A. Correct.

Q. In fact, am I not right in saying that on an earlier occasion in this room, you gave evidence that you were

/AP

in Mr. Aidan Phelan's offices in Clonskeagh, you had a conference call with Mr. Vaughan yourself, Mr. Phelan and Mr. Vaughan, and that everything was made abundantly clear to Mr. Vaughan at that stage that you were absolutely out of this transaction?

A. Yes. Mr. Vaughan could have had no illusion other than that.

Q. Now, do you remember, when you gave that evidence, I think I was examining you, and what I was suggesting to you was that a letter written on the 11th January with reference to this transaction was just as consistent with you still being involved in it as it was with you not being involved in it. That was the letter in which Mr. Aidan Phelan said he would backstop the transaction. Do you remember that?

A. Yes.

Q. And you were insistent that that was not the intent of that letter. And you insisted that Mr. Aidan Phelan, himself, knew that he was taking it over and that you were out of it and that your solicitor was absolutely clear about it.

A. Absolutely.

Q. And I was suggesting to you that there should have been some correspondence to show that the solicitor knew that you were no longer his client, but I think you emphasised in your evidence that it was absolutely clear, because I think there was a somewhat heated

conversation for other reasons, that you were out of it

and the client was now Mr. Phelan?

A. That's correct.

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Q. I think what you said is Catclaus was out of it, and Catclaus was Michael Lowry.

A. Correct.

Q. Now, to go back over the documents that have now come

to hand, we now see the selfsame solicitor writing a

letter on the 12th July in which he is writing to Kevin

Phelan, who is your own agent, in which he says or

suggests that you were still involved. And then

another letter was written in September in which again

it is suggested not only that you were involved, but

that certain steps were to be taken to satisfy you as

to how the property should be held prior to the sale.

Now, do you remember giving evidence the last day

concerning a meeting you had in Dublin in August with,

I think August 2000, with Ms. Helen Malone, Mr.

Christopher Vaughan, who came over for the meeting, Mr.

Aidan Phelan, in Jurys Hotel?

A. Yes, I do.

Q. And document 36, schedule B I think you may find it

easier, rather than trying to root the document out, to

look at it on the projector.

This document is headed "UK property ML"; presumably

means "Mr. Lowry". "Meeting notes", date 17th August

2000, ML: Michael Lowry; CV: Christopher Vaughan; AP:

Aidan Phelan; HM: Helen Malone.

Hilltop Farm", that's the Mansfield property.

"Acquired: March 1999.

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Cost: 250,000 sterling.

Registered owner: Michael Lowry.

Financed by: Partnership Investment AP.

Action.

Michael Lowry to hold as Trustee.

"Saint Columba's Church" that's the Cheadle property

Acquired: December 1999.

Cost: Sterling, 445,000.

Registered owner: CV as trustee.

Financed by: Investec.

- loan from partnership 44.5K

- original loan 420K

- balance o/s at 16/8/00

444K.

Action.

AP to obtain copy from ML of letter of offer from

developers in relation to this site.

Planning application to be submitted within three

weeks.

CV to arrange strike-off of Catclause - check."

Now, do you remember that when you were last giving evidence, it was being suggested that this reference to "UK property, Michael Lowry" was a reference to your property in the UK, and that that included both the Mansfield and the Cheadle property, and you say that's not correct. It was absolutely clear at that meeting

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that you were not involved in the Cheadle property except that you had this moral obligation that you hadn't actually because you were too busy to be able to do anything about to move it on?

A. Correct. And as you will see on that, "registered owner, CV as trustee", so he obviously knew it wasn't me or Catclaus at that stage.

Q. So it was abundantly clear at that point, if what you say is correct, and if your interpretation on this document is correct. And Mr. Vaughan seems to have gone to the trouble of coming over to Ireland at this point to have this meeting. He may have been here for some other reason?

A. The background to that is I think he was visiting for some international rugby match or some Rotary; anyway, there was some other event on that suited him.

Q. That meeting was held on the 17th August 2000, and yet we have a letter, the long form of the letter of the 5th September, written somewhat two to three weeks

later, in which Mr. Vaughan is suggesting that you were involved in this transaction.

Now, again I want to suggest to you that no ordinary member of the public, no more than myself or anyone else here, would find it hard to believe that some three weeks after a meeting like that, Mr. Vaughan could have somehow mistaken who his client was.

A. Well, I am quite definite, and I think everyone else is, I simply cannot explain Christopher Vaughan's attitude or his approach or why he wrote those letters.

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As I said to you already, I am surprised that there is such a thing as two letters, two different versions of the letter. I am not happy with it, and my solicitor has communicated that to him, and I have communicated the response. And I want to repeat, my position is as I have previously stated. And I also want to repeat I didn't have any knowledge of those particular letters until they were brought to my attention by the Tribunal.

Q. These letters were of course both addressed to Kevin Phelan?

A. Yes.

Q. None of them is addressed to you. And in fact, in the letter of the 5th September, Mr. Vaughan says that he doesn't want to write to you. He feels concerned about

writing to you.

Now, you mentioned earlier the meeting that you had with Mr. Aidan Phelan in his offices in Clonskeagh in

I think it was March 16th March, 2001. At that time you had a number of meetings, and I want to try to get them in sequence. We will get the meetings first, then the sequence, and then the dates.

You had a meeting with Mr. Aidan Phelan in his office?

A. Correct.

Q. In Clonskeagh. You had a meeting with Mr. Denis O'Connor sometime after he got off a plane, having come from America, I think; is that right?

A. Yes, on the

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Q. Around this time?

A. Around that time, yeah.

Q. You had a meeting with a number of people in the Regency Airport Hotel?

A. Correct.

Q. Now, can we just get the sequence of the meetings right. Which was the first one?

A. The first one was the meeting in Aidan Phelan's office.

The second one was with Denis O'Connor, and the third meeting was in the hotel out at the airport.

Q. At the meeting in Aidan Phelan's office, you say you were present. Who else was present?



A. What happened was I got a telephone call from Aidan Phelan, as I have previously given evidence on. He had told me that a problem had arisen with the Investec Bank which was a matter that was reportable to the Tribunal; that's what he told me on the telephone.

Needless to say I simply couldn't understand it, and was obviously shocked to hear that there was such, that there was any problem.

And he said to me, "Can you call in later on" I must have been in Dublin; can I call in later on? And I did; I called in that evening. And I don't know who what other meeting was on, but I know that I met Aidan Phelan shortly after I arrived. And he just outlined what the problem was, and I said "How can there be a problem?" I was completely taken aback by the fact that there was a problem.

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He, in general terms, tried to explain it to me, and I still couldn't fully understand why it would be a matter for the Tribunal, on the basis of my understanding of the property deals, and it shouldn't have had any reference to the Tribunal.

So he, as I said, explained it to me. I during the course of that, Christopher Vaughan was certainly in the office, and I met

Q. In the same room?

A. No, he wasn't I don't think he was. He was in the office at the same time, and I also met Kevin Phelan, and I was told by Aidan Phelan that what they were doing was they had got a letter and I think they also had a letter from the Tribunal, if I am not but what I can say for definite, my recollection for definite is that they were preparing, they were researching so that they would make a statement to the Tribunal.

And I left, and I said that I'd have to get, obviously, more details and what have you. And he was anxious to get on with what he was doing, and I left. That followed on to my second meeting then.

Q. Can we just stick with the first meeting and just clarify a few matters. Was this a one-to-one meeting with you and Aidan Phelan, or was Kevin Phelan there as well?

A. To the best of my knowledge, it was a one-to-one. Obviously an issue was one to one.

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Q. And there was no one else present at any point during the meeting?

A. I don't know if somebody or other walked through, or what have you, but what I can tell you is that Kevin Phelan was there, I was there, and

Q. I just want to be clear, was Kevin Phelan at the

meeting between you and Aidan Phelan?

A. No. It wasn't a meeting. It was all he was doing,  
it was

Q. All right, it wasn't a meeting. Was Kevin Phelan  
present when you were discussing whatever you were  
discussing with Aidan Phelan?

A. No, not all of the time. He might have been there for  
part of it, but certainly not all of it.

Q. Was he part of the discussion?

A. He may have been with them, but not with us.

Q. When you say "with them", was Christopher Vaughan part  
of the discussion?

A. With me?

Q. Yes.

A. No.

Q. Was he in the room at the same time as you were  
discussing things with Aidan Phelan?

A. No.

Q. Was Helen Malone present?

A. On the same evening, I didn't see her, but I understand  
that she was there.

Q. You were shocked that you could have had any  
involvement in this at all?

A. Correct.

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Q. Did Aidan Phelan or Kevin Phelan say to you, "Look,

there have been mistakes made here sometimes;

Christopher Vaughan sometimes gets you mixed up with other people". Did anyone say that to you?

A. It never arose. At that particular meeting, needless to say, I had been through the Tribunals; the last thing I wanted to hear was something had arisen that was going to drag me back to the Tribunal. That was my reaction. I have to say I wasn't interested in detail.

I just wanted a general overview of what the problem was, and I left that meeting.

Q. What was the overall view that you were given of what the problem was?

A. They didn't understand it themselves at that stage.

Q. What didn't they understand?

A. Pardon?

Q. What didn't they understand? Can you recall some detail of what the issues were?

A. What Aidan Phelan couldn't understand is why the bank had in fact contacted the Central Bank and that the Central Bank, if I have the sequence right, contacted the Tribunal. He was completely at a loss to understand how that could have happened or why it happened.

Q. Just in fairness to the central Bank, I think it may have been the other way around. The bank Investec was contacted by the Central Bank, the Central Bank had contacted Investec and then Investec contacted the

Tribunal.

A. I wouldn't have the details, but that's the general

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drift of it.

Q. After you left that meeting, were you much the wiser?

A. No.

Q. Were you given any documents?

A. No.

Q. Were there any documents produced at the meeting?

A. No.

Q. So nobody at the meeting had any documents?

A. No.

Q. It was just a discussion between two people without any documents?

A. It was simply Aidan Phelan explaining to me, effectively telling me that there was trouble on the line. And he couldn't understand why there was, and he was saying that he was preparing to make a statement to the Tribunal. And he was indicating to me that it was going to be necessary, obviously, if he was making a statement, I suppose at some stage I was going to have to make one.

Q. And at that meeting, did anyone identify an issue as to whether you were or were not involved as an owner or part owner of Cheadle?

A. What happened was the as you recall yourself, the

difficulty arose in relation to Cheadle, and it was only a week later or some time later, when I discussed it with Denis O'Connor, that we realised that Mansfield was tied in. So that's why it was complicated.

Q. But the Mansfield issue wasn't the big problem at this stage; the big problem at this stage, wasn't it, was that Investec Bank thought that they had a loan on

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their books which involved you and Denis O'Brien?

A. That wasn't even quite clear on that particular evening.

Q. That wasn't clear that evening?

A. No, no. He knew

Q. Was that being discussed that evening?

A. I don't know. I am just telling you that I just got an outline that there was a problem from Aidan Phelan, and he was effectively doing his work to see where the problem was. He didn't realise at that stage that the problem he knew it was with Investec, but he didn't know what the problem was. So his task that night was, number 1, he informed me that there was a problem; and number 2, he was obviously going through his own documentation to see where the problem was so that he could facilitate a statement to whoever; I don't know, it was the Central Bank or the Tribunal he was making it. But that's what was happening that evening.

Q. And he never told you that the problem was that your name was being linked with Denis O'Brien's name and Investec Bank?

A. I don't think he knew at that stage.

Q. I think evidence has been given by Mr. Cullen, and maybe another official of Investec Bank, and Mr. Aidan Phelan himself, in which at a meeting, either the end of February, in early March, at which Mr. Phelan was informed that what was exercising the minds of Investec was whether there was a connection between a loan on their books and you, on the one hand, and Denis O'Brien on the other. That was the problem, as far as he was /AP

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concerned, according to his evidence.

Now, he also gave evidence, this is his evidence, that he wrote a letter which he says was dictated to him by the bank in which he described the loan in terms which excluded any reference to you. And he acknowledged himself that wasn't correct, so I am surprised that at the meeting he had with you, which is closer to the middle of March, he wasn't telling you what the big problem was.

A. At that stage he didn't elaborate. He just said to me that he had a problem. I couldn't understand it, and he told me I'll have to come back to him. You will have to understand, he was in the middle of doing

something himself. I don't know what statement, but I think, if you get the date and whatever time he supplied the statement, you will find that he was preparing something or working on something, and I don't think he needed me around him at that stage.

Q. Ms. Helen Malone has given some evidence about this meeting at day 142 of the transcript of the Tribunal's proceedings, page 62, question 403:

"Question: 'Who was present at that meeting, at the first meeting?

"Answer: Again, there was Aidan Phelan, Mr. Lowry, and Mr. Vaughan again came in briefly, and I think Kevin Phelan was there briefly, but I am not actually sure of that.

"Question: What was that meeting? In Dublin, was it?

"Answer: Yeah, it was in our offices.

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"Question: In your offices?

"Answer: And the purpose of that, really, of briefing me and everybody concerned, really, as to

"Question: The first meeting was where you got a full view of the situation?

"Answer: Exactly, yeah.

"Question: And what were you briefed on?

"Answer: Well, I was trying to understand how this matter had come before the Tribunal, so I was basically



getting a history. Well, I think we were all getting a history of what had happened because I was certainly very confused, and I think everyone was.

"Question: And who was briefing you? Was it Mr. Vaughan?

"Answer: Well, I knew nothing about it, so it was Mr. Phelan, Mr. Lowry, and Mr. Vaughan were basically discussing matters.

"Question: Mr. Phelan, Mr. Lowry, and Mr. Vaughan?

"Answer: Yeah."

Then she goes on to the second meeting.

Now, doesn't that suggest that the purpose of that meeting was to brief the people who were present at the meeting as to what was happening? And doesn't it suggest that at that meeting, a lot of information was given to the people who were involved so as to explain to them what was happening?

A. Let me be a hundred percent clear. Whatever briefing was done was done internally, between themselves. I

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was not there for all of I simply called. I got a message that I simply didn't want to hear, and I got out of there annoyed, and I left them to get on with whatever information-gathering exercise they were doing between themselves.

And she confirms that she is saying that Mr. Vaughan

was there briefly. I am saying that I did see him there, and yes, I did see Kevin Phelan, but there wasn't a round-table meeting. I simply and I think if you also take as far as I can recall, I think that Aidan Phelan also had solicitors involved with him at that side, and one of the frustrating things for me on this particular night and I think Mr. O'Connor will confirm it that I simply didn't know what the problem was, or the extent of the problem. It was only in days later that we got to grips with what the problem was.

Obviously, at that stage, with the communication that the Central Bank had given to Aidan Phelan, he knew what the problem was. But as I said, how I was wrapped into that problem, that's what I couldn't understand.

Q. Mr. Aidan Phelan, when he was asked about it, Day 138, Page 48, Question 292:

"Question: And was that meeting in your office?"

And he said: "That was in my office.

"Question: What was the purpose of that meeting?"

"Answer: The purpose of that meeting was to understand the whole Investec problem and Michael was concerned

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that he had been pulled into the thing and we wanted to know, to understand, obviously, the conflict of Christopher writing to the bank purporting that

Investec was there and what the reality was, situation was, try and explain why those communications were being made."

Does that suggest that what they were trying to unravel was how you were being connected with this transaction?

A. Yes, absolutely. I mean, that was I was the problem. There was no problem. The only problem that was there

Q. Wasn't that the issue, then, that there was documentation in existence which connected you with this transaction? Wasn't that the problem?

A. But sure nobody is disagreeing with you on that. The reason I was there was to find out what the problem was.

Q. You say no documents at all were mentioned at the meeting?

A. No. There was just a discussion. What Aidan Phelan my part in the meeting, which was the only part I am concerned, was I am giving you what I think was happening, and you have to rely on Aidan Phelan to give you precisely what happened. I don't know when the meeting started, or when meetings started, in plural, or how long it lasted. I would say the maximum I was there was 20 minutes. I had had enough in 20 minutes.

Q. Did you say that you made contact later with Denis

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O'Connor?

A. Denis O'Connor at that stage was away on business in America, and I said to him, "when Denis comes back," I said, "we'll be back to you on it".

And that was the next phase of it. I think on that Friday Denis O'Connor came back. I had left a message for him to ring me. I met him when he got back that evening. He was back on the Friday morning, I think it was. I met him that evening. And I said to him, "We have a problem"; and insofar as I could, I outlined the problem to him from the information that I had got from Aidan Phelan. And at that stage, in my presence, I said to him, "Look", I said, "I don't have a difficulty with these properties".

He said to me, "What are we going to do?" I said, "If there is a statement" I asked him I think he rang Mr. Davis, and he told Mr. Davis that he had become aware of the problem, that I had acquainted him with the problem; that we would get the details, and that we will be back to the Tribunal, and that we would cooperate in respect of it.

Now, if I am not I think also, unknown to me, I think a letter had come to the from the Tribunal to my solicitor, probably on the same day or the previous day. So I, at that stage, as I said

Q. You met Denis O'Connor?

A. I met Denis O'Connor, yes.

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Q. And how long did that meeting take?

A. We met in the Schoolhouse in that pub, or whatever it is, a hotel.

Q. Northumberland Road?

A. We sat down and we had a cup of coffee. We went through it. He was after flying back from the States that morning. We were hitting into a bank holiday weekend, was it Patrick's Weekend? He said "Ring me on Tuesday and we'll try and meet up and go through it", or some day that week, and I met him then that week.

Q. Was your meeting with Denis O'Connor a short meeting, then?

A. I'd say we were probably, I don't know, three-quarters of an hour, maybe.

Q. And had he obtained any knowledge himself concerning these transactions from anybody else to enlighten you?

A. No. He was completely he was, as I said, just literally after coming back, and he had no information in relation. The first information that he had was from me. That's my understanding of it.

Q. You see, my impression is that Mr. O'Connor said that he spent a day, in effect, trying to understand what was going on.

A. He spent a day?

Q. Yes, and it was that evening, after that day he spent trying to understand what was going on, that he met you.

A. No, I can tell you precisely what happened was I met him on the Friday. We were going into a bank holiday weekend, and he made arrangements to meet me some day

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the following week; I am not sure what day it was. And on that particular day we gave a considerable amount of time going through it. At that stage I had given him the information that I had, and it was from that particular meeting, then, that we requested a meeting with Aidan Phelan and with Christopher Vaughan. We asked Aidan Phelan to establish a further meeting so that we could get to the detail of it.

Q. At the second on that second day, when you spent a lot of time with Mr. O'Connor trying to put it together, did you have any documents or did he have any documents to help you?

A. Yes, I gave him everything to

Q. To understand the situation?

A. Whatever I had in my possession, I gave to Denis O'Connor.

Q. What did you have in your possession?

A. I had my file.

Q. What did that file contain?

A. Whatever information subsequently, whatever information I had on that file is, obviously, the information the Tribunal has.

Q. And it didn't contain any other information other than the information you had obtained in the course of the transactions?

A. Obviously, yes.

Q. And then the next meeting was the meeting in the Regency Airport Hotel?

A. Yes.

Q. And correct me if I am wrong: At that meeting, you

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were in attendance?

A. Yes.

Q. Denis O'Connor was in attendance?

A. Yes.

Q. Aidan Phelan was in attendance?

A. Yes.

Q. Helen Malone was in attendance, I think?

A. Yes.

Christopher Vaughan.

Q. And Christopher Vaughan was in attendance?

A. And Kevin Phelan was available. I think he was I don't know, he had some other business as well, but he was available.

Q. He was in the hotel?

A. He was in the hotel.

Q. And was he in and out of the meeting? Is that what happened?

A. Yes, if clarification was actually, I think he gave an outline on the properties themselves, because you have to understand that there were people were obviously confused, and I suppose they still are confused; but at that particular stage, the likes of Denis O'Connor needed to know.

I was under pressure at that stage to make a statement to the Tribunal, and if I remember correctly, the statement that I had been asked to make, it was in respect of Cheadle. But we soon realised that we'd also have to make a statement in respect of Mansfield.

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And Denis O'Connor and I, and I am sure every other person dealing with the Tribunal, are very conscious of the fact that if you make a statement, that the statement has to be as fulsome [sic] and accurate and as factual as you possibly can make it. And it takes time to do those things, and it takes time to research them and get it right.

Q. At that point, do you recall, or do you recall now, who had organised that meeting in the Regency Airport Hotel?

A. The meeting was at my request, and I think Denis had



liaised with Aidan, who made the arrangements in terms of getting people there.

Q. What was your request to Denis?

A. My request to Denis was simple: "Denis, can you see can you put sense on this?" Because I still, and to this day, I don't understand why or how it was a problem, particularly in relation to Investec.

Q. And you asked Denis did you ask him to get all the people involved and to bring them together? Is that it?

A. I just made a decision Denis at that stage spoke to Aidan, I think that was the sequence, and he asked I had asked Aidan to set up the meeting, and the rest of the arrangements were left to Aidan and Denis.

Q. Did you know before you went to the meeting that Kevin Phelan would be at it?

A. I don't know whether I did or not, to be quite honest.

Q. Did you know that Christopher Vaughan would be there?

A. Yes, I did.

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Q. Who told you that?

A. Aidan Phelan well, the meeting would have been futile without having Christopher Vaughan there.

Q. And how long do you think that meeting took?

A. I would say, from my recollection, what happened was Christopher Vaughan was late. I think the meeting was

due for 2 o'clock, and I think we started at 3 o'clock and finished at quarter or twenty past 5, around that time. Between 5 and 6.

Q. Between 2 and 3 it started?

A. Yes.

Q. And do you remember what documents were produced at the meeting?

A. You mean what details? I don't. My understanding of that meeting was that again, it was taking people from phase 1 to phase 2 to phase 3, people through the whole the different phases of it, and whoever was directly involved in each phase put their input into it.

And to be quite honest with you, early on in the meeting, it was everybody talking over each other to know what was the problem, and how could there be a problem? And I recall Denis O'Connor saying "Look, we have to bring some order to this". And that was probably after a half an hour. "Will you bring some order to this?" And he chaired the meeting.

Q. Of course. Where are the notes of the meeting?

A. Which notes?

Q. Were there notes of the meeting?

A. I didn't take notes. I can't speak for anybody else,

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and like I said, I have rarely I have never seen

Denis O'Connor taking notes. Whether Christopher

Vaughan took notes or not, I can't say.

Q. So the purpose of this meeting was to get to the bottom of a very confusing situation, as you saw it. There were Ms. Helen Malone, professional; Mr. Aidan Phelan, professional; Mr. Denis O'Connor, professional; a solicitor, Mr. Kevin Vaughan, present, and Mr. Christopher Vaughan present, and no notes, as far as you can recall, were taken of this three-hour-long meeting?

A. What we did was we went through the documentation that was whatever documents Christopher Vaughan was whatever documentation I had, I presume they went through it in terms of familiarizing themselves with it. I don't know who took notes. I never take notes at meetings.

Q. Did Mr. Vaughan have his file with him?

A. He certainly had documentation. Whether it was his full file or half file or what kind of

Q. Did you get his file off him?

A. Pardon?

Q. Did he give you a copy of his file?

A. Did he

Q. Wasn't that the obvious thing to get at that point, a copy of his file?

A. I didn't ask him for a copy of his file.

Q. He was your solicitor?

A. Pardon?

Q. He was your solicitor?

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A. Well, I didn't ask him for a copy of his file.

Q. Did anyone else ask him for a copy of his file?

A. Not to my knowledge.

Q. Here was a situation where you were being dragged into

a Tribunal again, as you said, by something that you

had nothing to do with. Your solicitor was present.

Your accountant was present. Your business partner,

Aidan Phelan, was present. And there is no note of a

three-hour-long meeting to try to get to the bottom of

this confusing situation. Isn't that odd?

A. It was what it was: a meeting to establish whatever

the facts were; to familiarise people with it.

You have to understand, Mr. Healy, you have to

understand that the purpose of the meeting was to

allow I wouldn't have had access to all of the

information at any stage, and even in the last twelve

months I am still getting information via the Tribunal

in relation to those transactions.

Now, you have to take Mr. O'Connor's position. He was

coming into this not knowing about it, and he had to

start from day 1.

Q. It was a learning curve for him, so, from the

beginning?

A. Yes. So it

Q. It's just that I can't understand, and I am sure there are many other people who'd share my bemusement, at how you could be at a three-hour-long meeting that you have to learn so much, and no one takes a single note. I

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just find that strange.

A. I didn't say that nobody I can only speak for myself.

Q. I see. After that meeting, were you satisfied that you had all the information you needed?

A. No.

Q. What were the questions in your mind that you still had after that meeting? Can you remember?

A. The big question was all of the time, we hadn't at that stage any indication other than whatever verbal information we had from Aidan Phelan. We had no idea, I think at that stage, we didn't have, as to what actually Investec or the bank were saying. And that would be one of the problems, but there was a whole multitude of questions arising.

Q. At that meeting, I take it from what you have told me of it, you assumed that the matters that were being discussed at the meeting were going to be ventilated at the Tribunal, and that answers were going to have to be provided for questions being raised by the Tribunal?

A. At that meeting, obviously, I would have to say that we

were, as I said already, the word I would used was people had to familiarise themselves with the events, with the sequence of events, get them in proper order and have a full and clear understanding of what was involved.

After that it was a case of making a statement to the Tribunal, yes. That was probably the object of the exercise, was that everybody would have a clear

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understanding of what exactly it involved.

Q. Was it assumed at that stage that any of the people involved would have to be giving evidence eventually in public about this?

A. There was the only thing it wasn't, actually, because we at that stage felt that a statement, when the statement was made, that it would clear up the matter. But it transpired that it didn't.

Q. Did

A. And there was a full I suppose, to answer you, there was certainly an acknowledgment from all sides, including Christopher Vaughan, that there would be full cooperation afforded to us and to the Tribunal in making that statement.

Q. Am I right in thinking that at one stage you arranged for Mr. Denis O'Connor to visit Mr. Vaughan?

A. Yes. The Tribunal were putting a lot of pressure on my

solicitors to have Christopher Vaughan attend the Tribunal. Now, the sequence, as you say, we were at the Regency Hotel. We made at that stage we decided that everybody decided that the Tribunal would get full cooperation. That meeting was held on the 30th sorry, that meeting was held on the 24th March, and on the 30th May, Christopher Vaughan attended a private session of the Tribunal here at Dublin Castle

Q. Well, a private meeting; no more than meetings that many other people have had here.

A. I think it's important to put it on the record that he actually did attend.

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Q. I am just quibbling with the word "session"; that's all.

A. I understand it was three hours.

Q. Yes.

A. So that was at that stage, and we proceeded on then to comply with the wishes of the Tribunal.

At a later stage, Mr. Vaughan, for reasons which he has given to the Tribunal, didn't wish to attend a public sitting of the Tribunal. We gave the Tribunal, as you requested, all the waivers on confidentiality; whatever access you needed, we gave you permissions for that.

At a private session, also, you said to me, "Well, what

else are you doing to get him here?" And I said,  
"Well, what more can I do other than ask him?" And I  
said that I would ask Denis O'Connor to go and meet  
with him and encourage him to attend, and he did that  
at my request, and that

Q. What happened?

A. Pardon?

Q. What happened?

A. That attempt failed.

Q. Do you know what Christopher Vaughan said to Mr.  
O'Connor?

A. I do well, I am going on what Mr. O'Connor said to  
me when he came back.

Q. What did he say?

A. He said that he had attended here at Dublin Castle on  
the 30th; that he was extremely disappointed. He felt

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he had been treated in discourteous way. He felt that  
his professional integrity had been questioned at that  
meeting. He said that he had a three-hour meeting, and  
that he subsequently received a memo of that meeting, a  
memorandum of that meeting, and he said that that  
memorandum did not bear any relation to the information  
he had given the Tribunal; that he had written to the  
Tribunal and asked you to correct it, and that he  
hasn't had a satisfactory answer to that letter since.



That's what he said.

Q. Did he ever say that he had a heart complaint?

A. Pardon?

Q. Did he tell you that he had a heart complaint?

A. No. Maybe he told Mr. O'Connor.

Q. He didn't tell you? Well, Denis O'Connor didn't tell you that he told him that he had a heart complaint?

A. No, no.

Q. Did Denis O'Connor tell you we can ask Mr. O'Connor, but it might speed matters up tell you that Mr.

Vaughan had said to him, "I used to get confused when I was doing this transaction between Michael Lowry and whoever else was involved in it"?

A. Did he?

Q. Ever say that, that he used to get confused?

A. I don't know. You will have to ask Denis O'Connor.

Q. Did Denis O'Connor tell you that?

A. Not to my recollection.

Q. Did Mr. Vaughan ever say at the meeting in the Regency Airport Hotel that he used to get confused about who his client was?

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A. He did. He said he did say that it was confusing, because he made

Q. I don't want to know did he say it was confusing. Did he say that he got confused as to who his client was?

A. I don't recall.

Q. At that meeting, presumably, it had become clear at that meeting it was clear, obviously, that one of the problems was you were being portrayed in the bank as the owner of the property and as the person who was still liable on the loan, isn't that right, and the question was, would the solicitor's file provide any information as to who was the real client? Isn't that right? That must have been the issue, mustn't it?

A. No, it didn't actually become that wasn't that became an issue. We knew it was, but we didn't know the extent of it, because at that stage we didn't have we didn't know what the bank were saying. And nobody could figure out because there was nothing to indicate that such a problem would be there. Aidan Phelan said it couldn't arise, and he was involved. I said it couldn't arise

Q. What did Aidan Phelan say?

A. Sorry?

Q. What did Aidan Phelan say?

A. Aidan Phelan was of the clear understanding that there couldn't be any doubt within the bank but that the loan was in the name of Catclause, and it was in my name. And it got to the stage where he was absolutely satisfied with that. And I do remember Denis O'Connor at one stage saying, "Well, does Catclause exist?"

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And you know, that was the kind of a meeting it was.

And we had to go away and make sure that Catclaus

because we were being told by the bank that you

know, we knew that the loan was in Catclaus's name.

Q. But in the course of that meeting, did Mr. Vaughan ever say, "Look, a problem could have arisen here because I sometimes used to get you mixed up with other people"?

A. That didn't arise.

Q. But you were saying that Aidan Phelan was saying "Look, as far as the bank is concerned, I am the person who is involved in this transaction and no one else". And Mr. Vaughan never said "Well, look, hold on a minute.

Sometimes I used to get confused; Mr. Kevin Phelan used to have to correct me". Did he ever say anything like that?

A. I have no doubt that he was confused, but he didn't

Q. No, no; did he ever say anything like that?

A. He didn't crystallise it like that.

Q. He never said he was confused about who his client was?

A. I don't remember him saying that.

Q. Eventually, as you know, Mr. Christopher Vaughan's well, a significant number of documents, in any case, from Mr. Christopher Vaughan's file were made available to the Tribunal. And I think those documents were then made available by the Tribunal to you; isn't that right?

A. I presume so, yes.

Q. Now the situation is that when the Tribunal last looked into this matter, it was proceeding on the basis of a

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set of documentation which included the file copy of the short form letters and the top copy of the short form letters. But the Tribunal never had the long form letters. Isn't that right?

A. No more than I had.

Q. No more than you had.

A. (Nods head.)

Q. And now the situation is that the Tribunal is being asked by Mr. Christopher Vaughan to accept, in a kind of a roundabout way, I suppose, that the two long form letters which he wrote, and which clearly referred to you, came into existence could have come into existence as a result of his being confused. Isn't that the best we can put on his explanation at the moment?

A. I'd say it would be a reasonable yeah.

Q. Now, the short form of the letters we have just discussed clearly indicate that you were not involved in these transactions, and the long form of each letter clearly indicates that you were. Isn't that right?

And the further fact that the Tribunal has to consider, and I want to offer it to you for your comment, is that

while it has been suggested that the long form of these letters came into existence could have come into existence as a result of confusion which was corrected by Kevin Phelan, both of these letters, or the differences between both of these sets of letters, seems to suggest that the short form letters were actually completely reconstituted. Do you understand that is a view one could take?

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A. As a view?

Q. A view one could take.

A. I am sure you could put that interpretation on it, yes.

Q. And what is more, that the short form letters could have been reconstituted not at the time that each of the long form letters was written purportedly by mistake, but that each of the short form letters was reconstituted at the same time.

MR. O'DONNELL: There is no evidence at all, as far as I can see, of when any of these documents were written, any one of the six or seven copies of the two sets of letters; so I don't know how it can be put that they were done some of them were done at the same time or at a different time or a much elongated time. So I don't think there is simply any evidence of that.

CHAIRMAN: Well

Q. MR. HEALY: Sorry, Sir, what I am suggesting is that if

the explanation that has been given that the second explanation by Mr. Vaughan; not his first explanation, which seems hardly credible but if his second explanation is to be given, is to be examined at all, his second explanation is that these long, these short form documents could have come into existence, could have come into existence as a result of some confusion or mistake, and that that mistake would have been corrected after he sent a document to Mr. Kevin Phelan.

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Now that possible or that possibility is something that you might consider or that the Tribunal might have to consider, and that ultimately, obviously, you, Sir, would have to consider if the short form documents were more or less the same as the long form documents with the so-called mistakes simply taken out.

But what you are being asked to consider, Sir, is a set of discrepancies between the long form and the short form documents which I think, on any view, could reasonably lead to the inference that the short form letters, the first of them on the 12th July, was a complete reconstitution; and when you pass from that and look at the letter of the 5th September, and you see that again that letter could be, on a reasonable interpretation, open to the same view, that it was a complete reconstitution, I think you can then say that

it wouldn't be unreasonable to consider whether the reconstitution of both letters hadn't in fact occurred at the same time.

CHAIRMAN: Well, ultimately it's a view that could be reached. I won't press Mr. Lowry to advance a view on it because there is inevitably a degree of speculation at this stage, unless you care to comment in any particular way.

A. No, Mr. Chairman. I think I have made my comments on it.

Q. MR. HEALY: I am looking for some documentation made /AP

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available to the Tribunal by Mr. O'Connor. I think you are aware of the documentation concerning tax matters, Mr. Lowry.

CHAIRMAN: Just while they are getting that, Mr. Lowry, if we just take up one last point while it occurs to me. On the long form of the first letter of the 12th July, if you have it there, I think it's at the start of that particular section, document number 1.

A. Of the July one?

CHAIRMAN: Yes. The longer form.

A. Yes.

CHAIRMAN: You see the last paragraph, which doesn't appear in the short form.

A. Yes.

CHAIRMAN: "I seem to recall when the lending process was being completed that the lender was going to require a six monthly report on the marketing of the property. Can you please let me have details so I can deal with this? I think the same will apply to Mansfield as well."

I suppose, on what you tell us of the situation today, Mr. Lowry, that was completely wrong on a number of counts. You had got out of Cheadle, number one; and as regards Mansfield, which you did retain an interest in, you had in fact used joint agreement finance for that,

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apart from putting your own deposit in, so there was no question of a lender. Am I right in that?

A. It's extremely there was never a lender.

Q. MR. HEALY: Do you remember, in the course of your evidence on day 152 you won't remember the day, but for the sake of the record, day 152, page 40, line 27, question 82.

"Question: Just as a matter of interest, who did ultimately advise you in relation to the taxation implications of taking the property in the name of the company as opposed to your own name?"

And you said, "Who actually? I actually asked Denis, I just asked him in what connection when would Capital Gains apply? And he explained to me that Capital Gains



does not apply well, the impression that I got, anyway, was that you are better to put the a purchase of a property, if you are talking about Capital Gains, in your own name; that's why I did it that way. I don't understand the technical reasons behind it, but that was one of them.

"Now, I didn't actually speak about this property in particular; I just said in general terms.

"Question: Right; you asked him a general query. He didn't know that you were buying this property?

"Answer: He did. Well, he knew that I was getting involved. As I have given evidence already "

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Now, what happened at that stage was that I think you were suggesting that Mr. Denis O'Connor was aware that you were involved in property transactions in England, and I think the evidence had been, from information made available by Butler Brophy Thornton, that they weren't aware, isn't that right, and you were saying you had asked them about the tax implications? Isn't that correct?

A. That's correct.

Q. "Question: Let me be absolutely clear about it, now. He has given evidence; he said he knew nothing about this.

"Answer: Sorry, he said that he knew in general terms

that I was involved in the UK property, but he was not aware of the specifics.

"Question: Did he know that you were buying this property?"

"Answer: Not this specific property.

"Question: You didn't mention this property to him when you raised this query with him?"

"Answer: No, I just said, if I bought a property in the UK, what would be the position in relation to Capital Gains?"

"Question: And you didn't tell him that the person you were dealing with in relation to this property at that time was Kevin Phelan?"

"Answer: There would have been no reason to, no.

"Question: When you subsequently went and bought the property in your own name, you didn't tell him, either, that you bought it with Aidan Phelan, who he would have /AP

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known very well?"

"Answer: There was no necessity."

"Just to put that in perspective, Mr. Healy, we were at the stage that Denis O'Connor was exceptionally busy in relation to my general affairs and with cooperating with the five different inquiries that I had been involved with over the last six years, and the five different inquiries have been essentially inquiring

into the same matters. So he would have been quite busy in relation to that. And you have to understand, Mr. Healy, that at this stage, I had taken up a considerable amount of his time.

"Question: What five inquiries, just to clarify my mind about it?

"Answer: We started off in the six years after I resigned, we started off I started off with the Buchanan Inquiry.

"Question: Was Mr. Mr. O'Connor involved in that?

"Answer: Yes.

"Question: I see; I didn't realise that.

"Answer: I went from the Buchanan Inquiry to the McCracken Tribunal. I went from the McCracken Tribunal to Minister Harney sending in an Authorised Officer, an inspector, to do an inspection on my company Garuda. I went from there to the Revenue, at which you are aware I was in the High Court yesterday. And I went from there to the Moriarty Tribunal.

"And so I have had five different levels of

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investigation and interrogation over that six years, so

Mr. O'Connor was exceptionally busy. And I'll have to

say there is no point in I saying anything else

he was at that stage moaning to me that he had

difficulties with his own practice because he was

neglecting his other clients because he was giving so much time to me. So for that reason, I didn't get him involved. I was going to get a short answer if I asked him to get involved and start looking at the detail of anything else. And that's the reason he wasn't actively involved in relation to this.

"Could I say, Mr. Healy, in relation to all of those inquiries, you know, it's something that the public wouldn't be aware of. And I am not making it a big issue, but I have done the best that I can to cooperate with all involved within the parameters available and open to me. And in that process, over six years, my accountant has estimated that I, on a personal level, have accrued costs to me and my company of  $\text{€}1,436,000$ . That's what the accumulated costs are."

It goes on and on, I think, about those matters.

Now, the document that was made available to the Tribunal, we don't need to put all the document on the overhead projector, but it's a memorandum from a Ms. Patricia Quigley, a tax expert in the office of Denis O'Connor, to Mr. O'Connor. It's dated 30th August, 1999, and it's about a number of aspects of your own

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personal affairs and the taxation implications of those personal affairs. Isn't that right?

A. Yes.

Q. Which are of no interest to the Tribunal.

A. Mm-hmm.

Q. And then one of the items, I think the last item is, the item which says "Sale of UK property." And you say, and the note says "I cannot find the CGT workings I did for this. Do you have a copy? If not I can redo it. I need the following: Estimated sale proceeds, cost, date of acquisition."

Do you remember what that was about?

A. Can I, Mr. Chairman, with your permission, just put this in context?

CHAIRMAN: Of course.

A. What happened was during the course of my evidence, I said that I had told Denis O'Connor, in general terms, nothing specific, that I was involved in the UK property market. Mr. O'Connor, in his evidence, didn't recall that; and subsequent to he giving evidence, there was a banner headline saying "Lowry's accountant", something or other.

I said to Denis that day, I said, "Denis, do you not remember I did say it to you? And arising from that, you didn't deal with it, and you forwarded me, through one of your partners or somebody, a manager, not a

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partner, a manager within the company." Now, that did happen and that did happen and Mr. O'Connor went back

and he checked it and he found that in fact I had mentioned it to him, and that's the only reason why I raised it.

Q. MR. HEALY: What you had mentioned, you said in your evidence, was a very general query without identifying any particular property, and what you were looking for was general advice?

A. Yes.

Q. "If I got a property in England and if I did something with it, what would the CGT implications be?"

A. Yes, and what happened then was I went to Patricia Quigley in that office, and I made the same inquiry of her; I didn't have any specifics. I just the questions I was asking her were how would taxation apply to a property, if you accrue a dividend from a property in the UK, are you taxed in the UK as well as here, or does Capital Gains apply, and what would be in the event of something happening?

Now, I note from her memo at a later stage, what in actual fact happened was I discussed it with her, and she said she had to make some telephone calls on it, and the next time I was in the office to call in to her. And did I call back in I don't know what time; I don't know the time scale involved in it and I got no real definitive advice. What she said was "If you get to the stage where you actually are selling

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something, or that you have a profit from it, we'll take it up and we'll have something to work on".

And that's the history of that particular event.

Q. And in fact isn't that the case? If somebody were to tell you there was a Capital Gains application, that's as much as they could tell you without knowing the precise details of a particular property what you had paid for it, what it had cost you to fix it up, and so on, and what you were going to get for selling it?

A. I wasn't looking for precise details. I was looking for an overview as to what the taxation implications were if that were to happen.

Q. But do you see the note that's on the overhead projector?

A. Yes.

Q. Ms. Quigley is saying "I cannot find the CGT workings I did for this. Do you have a copy? If not, I can redo it. I need the following: Estimated sale proceeds, cost, date of acquisition."

That suggests that she actually did work out what the CGT implications of a particular transaction would be.

A. I am not surprised, actually, she can't find it, because it didn't happen. She didn't actually do any exercise like that for me.

Q. But she seems to say she did?

A. What I am saying is that I certainly gave her no

specifics or no details. Maybe she worked something on a pro rata basis, but I never got any figures from her.

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Q. But in any case, therefore, if I could just summarise that part of the evidence, and correct me if I am wrong, what you are saying is that all your dealings with Denis O'Connor or with anyone in her office in connection with UK properties were of an absolutely general nature, almost by the way; you were simply asking "What would the taxation implications be of property dealings in the UK if I got involved?"

A. Yes. I had no specifics.

Q. You hadn't told them that you were at that moment involved?

A. I don't know whether I did or not. I just made a general inquiry.

Q. I just want to be clear about that, because that was the issue that arose the last day.

A. I just told

Q. Mr. O'Connor said he wasn't involved or didn't know.

Now, did you give whoever you were dealing with specific information about what you were then doing, or did you merely ask a general question such as you might ask maybe any tax expert?

A. Let me be clear; I made a general inquiry of Denis O'Connor in relation to the UK market. He referred me



to a manager within his office, and I again made a general inquiry. I got some information verbally, but there were no specifics from me, because I didn't have any specifics.

Q. Lastly, in relation to the letters, I think I have to put something to you to afford you an opportunity of commenting on it, Mr. Lowry, in connection with these

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letters.

What I'd suggest to you is a member of the public, looking in at these letters and at the fact that there are two versions and the differences between them, could well take the view that the creation of the short form letters was done so as to conceal the true nature of the Cheadle transaction, in particular, so as to conceal your involvement in it. Have you any comment to make on that?

A. I want to state emphatically that at no stage that any of my dealings in relation to Mansfield and Cheadle are clearly documented. They were there for everyone to see, and any dealings that I had were dealt with through my partnership, initially with Aidan Phelan and subsequently through a loan that I acquired through my company Catclause, which the guarantor failed to deliver on and which I handed over to Aidan Phelan. There is absolutely no question or there is absolutely

no doubt in my mind, or can there be, in relation to the substantive issue, and that is that I own 10 percent of Mansfield; that I did own Cheadle in the name of Catclause; and that I no longer have any involvement in that since January/February the year 2000. And I refute categorically and totally any suggestion to the contrary that I was involved in whatever word you used, hiding my presence in those particular transactions.

Q. I also suggest to you that a member of the public could /AP

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take the view, could take the reasonable view that the failure to provide the Tribunal with the long form letters was also done so as to conceal them from the Tribunal and so as to conceal your involvement or an involvement by you in these properties

A. I again

Q. from the Tribunal.

A. I again wish to state that clearly, that any documentation in my possession and relevant to this transaction was formally given to the Tribunal. The documents that you refer to now were never known to me, were never issued to me, were never in my possession, and I got first sight of those when they were presented to me by the Tribunal. And you know how we have responded to the requests that you have made in regard

to that since they were made available to me.

Q. And if a member of the public looking at this was to take the view that your solicitor had created these documents your solicitor Christopher Vaughan, I hasten to add, not Mr. Kelly your solicitor Christopher Vaughan had created the short form of these letters and had kept the long form of the letters from the Tribunal, that you'd be absolutely shocked and horrified that anyone would do that with regard to your affairs?

A. Yes.

Q. Because if somebody was to do that with regard to your affairs, in the light of the evidence you have given, they would be uttering a complete falsehood about your affairs, wouldn't they?

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A. They would completely misrepresent my affairs, yes.

Q. And not only that, they would have, by withholding the documents, they would have been seeking to prevent the Tribunal from having access to information about your affairs?

A. I have at all times cooperated with the Tribunal.

Q. And that would be a horrible and horrific thing for a person's solicitor to do?

A. I can't say that he did that.

Q. But if that view were taken, that these documents were

created in this way, it would be an absolutely shocking thing for a solicitor to do?

A. Of course I would, but I can't say that that happened, and I can't say that it didn't happen, whatever else happened.

Q. Because what the Tribunal has suggested to you in the correspondence you mentioned a moment ago is that, having regard to the fact that that view could be taken of those letters, and having regard to the fact, as I am now saying to you, that Mr. Vaughan has not come up with a meaningful explanation as to how this happened, that it would seem natural that someone in your position would be on to the Law Society in England, or maybe you might be on to them in the future, to find out how your solicitor could do this, or could fail to come up with an explanation for how this could happen?

A. Could I ask you, Mr. Healy, is it your view and your wish that I would take that course of action?

Q. Yes, but I'd be surprised if you didn't, is what I am saying.

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A. What I am asking you, if you assist me, do you feel it would be of assistance to the Tribunal if I did that?

Q. Yes.

A. Well, then, I have always at all times cooperated with the Tribunal, and I certainly will ask my solicitor to

take the matter up with the Law Society.

Q. Thank you very much, Mr. Lowry.

CHAIRMAN: Well, I think it would have to be, Mr.

Lowry, on a basis that it was still your own decision,

you could bear in mind that you were given a

recommendation from the Tribunal. I don't think it

could be said that the Tribunal directed you to make a

complaint, but you can bear in mind what Mr. Healy has

put to you.

Mr. Gerry Kelly, anything on behalf of Mr. O'Brien you

wanted to raise?

Mr. O'Donnell?

Very good. Thank you very much, Mr. Lowry, for your

attendance.

THE WITNESS THEN WITHDREW.

CHAIRMAN: I am obviously anxious to try I

appreciate it's been a long day for you, Mr. Healy, and

you might prefer to stay seated, would you, for the

next witness? Will we go on, then, with Mr. O'Connor,

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and see how much progress we can make?

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DENIS O'CONNOR, PREVIOUSLY SWORN, WAS EXAMINED AS

FOLLOWS BY MR. HEALY:

MR. O'CONNOR: Mr. Chairman, could I just clarify

something about my previous evidence; it's just a small point, but a bit turns on it.

There was an interjection by yourself, and there was so much pressure on at the time, I gave you a wrong answer. It was day 140, question 54, and Mr. Healy and myself were at the sequence of the records of the company Garuda versus the records of Michael Lowry the individual. I had said in '99, I think, that I had started, if you like, on the records of the company in April/May, say, of '96. But I never actually looked at any personal records of Michael Lowry until December of '96, which was post the controversial media stuff. So you interjected by saying you were making the distinction between Lowry the person and Lowry the politician.

It was nothing to do with politics. It was like Garuda Limited; Michael Lowry Esquire. Two different cases, two different files, if you like, in our office.

That's just it bothered me afterwards.

CHAIRMAN: I take the point. Thank you.

MR. HEALY: Thank you, Mr. O'Connor.

Q. Mr. O'Connor, I want to deal with the meetings that I /AP

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have already mentioned to Mr. Lowry. And again, so that we are on the same wavelength about the meetings, you were in the United States when all this thing blew

up?

A. Correct.

Q. When you got back, I think you said earlier that there was a telephone message in your office for you to contact Mr. Lowry?

A. Correct.

Q. There was a meeting between you and Mr. Lowry in the Schoolhouse, as we now know, Restaurant, is that right, or somewhere like that?

A. On the 16th.

Q. On the 16th.

A. Just on that, in the earlier evidence that went on here, I understood you were saying that this famous first meeting, that I wasn't at, was on the 16th. My understanding is it was earlier than the 16th. But the evidence earlier today was a bit confusing.

Q. Your meeting, in any case, your first?

A. Was on the 16th.

Q. And prior to that, the day before if your meeting was on the 16th, on the 15th there was a meeting in the Clonskeagh offices of Aidan Phelan?

A. Correct.

Q. Then after your meeting there was, as we now know, a meeting between yourself and Mr. Lowry that took place sometime shortly, the Tuesday I think he said, when you tried to come to grips with the thing and spent the bones of a day on it?

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A. As well as the 16th.

Q. Yes, as well as the 16th. And there was a meeting in the Regency Airport Hotel?

A. Correct.

Q. Right. You weren't present at the meeting; you were in the States at the time of the meeting in Mr. Phelan's office?

A. Correct.

Q. So you came back and you contacted Mr. Lowry. Now, I understood from your evidence that I read out a moment ago that you in fact devoted most of that day to try to come to grips with this thing before you met Mr. Lowry in the evening of the 16th?

A. No. My understanding, and I am trying to remember it during his evidence, and I think he hasn't got it actually fully correct. I would have imagined, having flown in from the States, that I probably I am just going on what normally happens on trips like that would have kind of, between going home and one thing and the other, probably been ready at one o'clock, half one, something like that. You know, it depends on which time; the particular flight either gets in at half eight or half ten, so I can't remember which one I got in at.

So therefore, between going home, getting back from the



airport, one thing or the other, I would have say, one, half one, two o'clock when I became now, I could well have gone to my office, I would imagine, and then linked up with him.

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Q. I see. And how long, do you recall, did you spend talking to him in the course of your meeting?

A. I would have said a few hours. I would have said three or four hours. Because my recollection is that I rang Mr. Davis at around half four that evening; that's my recollection. So

Q. Mr. Davis is nodding, so I presume that's right.

A. I see that. That would be my recollection, yeah. So in other words, I believe there was three hours, four hours, something like that, spent on it.

Certainly three hours or two and a half hours.

Q. And did Mr. Davis give you some information in the course of your telephone call to put you in the picture?

A. I think it was brief. I think it was on the lines I think I'd have said to him "I have just come back. I have been made aware of this thing. You are already aware of it. All I am ringing for is to say we know about it and we are willing to cooperate". Something like that. A brief message.

Q. When you had a three-hour meeting with Mr. Lowry, at

that stage, what was the issue or what was the problem you were canvassing in the course of your meeting?

A. This was difficult, between the course of deferring you are going back but my recollection is that the reference, the Investec reference, if you like, to Denis O'Brien, I believe that I may have been told about it that day, okay? And I think a lot of what I was told about that day of the whole sequence of /AP

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events, if you like, the Cheadle property, okay?

Investec Bank, sorry, Woodchester, I suppose, being taken over, Investec, Central Bank, that kind of scenario. I was also told that day about Mansfield, okay? So I mean, at that stage, I was getting that kind of outline on the whole thing.

Q. Then you had a meeting, some kind of round-table meeting the following Tuesday?

A. Yeah. I wouldn't be sure it was the Tuesday, but sometime the following week, yeah.

Q. And who was present at that meeting?

A. Just Michael Lowry and myself.

Q. How long did that meeting take?

A. Probably a few hours again. I mean, I would have said, "Look, I am not getting the bones of this story just sitting here kind of talking to you; we need to get a better grip on this, because we have to make a

presentation on it".

Q. At the first meeting, do you recall, did Mr. Lowry have any documents?

A. No, he hadn't.

Q. At the second meeting, did he have any documents?

A. If I remember correctly, he had a file with him which I believe was the file that was subsequently given to yourselves. In fact I would have told him you know, "Go back to go back home, if you like, on the Friday, and we'll sit down next week and"

Q. Get all the relevant details?

A. Yeah. I don't sleep on the aeroplane, so I know I would have been tired that day, right, the Friday.

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Q. After that long meeting that you had on the Tuesday, or whatever day it was, had you formed any impression or any picture of what had happened?

A. Had I formed any picture? I suppose the picture I had formed that we were back in here, and you know, that would have been my sole concern, like. This still wasn't clear to me.

Q. I think, as somebody who has given evidence here and has provided very helpful evidence to the Tribunal and has provided assistance to Mr. Lowry over the years, you could you would have seen that here you had not just two property transactions, one of which or both of

which might have involved a connection between Mr. Michael Lowry and Mr. Denis O'Brien, but you also had the additional issue that the Tribunal knew nothing about these matters. So I presume it was perhaps on both fronts that you felt you'd be back, as you put it, in here?

A. My view would always be, if in doubt, bring it in here.

Q. Then you had the meeting in the Regency Airport Hotel?

A. Correct.

Q. What were you told that meeting was going to involve?

A. That I think that primarily, or of primary assistance at that meeting, would have been Christopher Vaughan in particular, right? But also, like, he would explain, if you like, the legal end of it, okay? And that Kevin Phelan would explain the commercial end of it. That was the gist of what I understood it to be.

You know, to some extent, I would have gone to that

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meeting very open and you know, open-ended; what the heck, were we going to be wiser after? Were we going to have a complete presentation? That type of attitude, very open.

Q. And were they the two founts of knowledge, if you like, at the meeting, the two major founts of knowledge, on the one hand Mr. Kevin Phelan and on the other hand Mr. Christopher Vaughan?

A. I wouldn't say that. I mean, Aidan Phelan contributed significantly at that meeting, significantly, so you couldn't just say it was just the two of them.

Q. All right. There were three major sources of information: Aidan Phelan; Kevin Phelan, no relation; and Christopher Vaughan?

A. Correct.

Q. And at that stage, I presume, it must have become clear to you that one of the questions was whether Mr. Lowry was the person involved in the Cheadle property and whether he was the person involved in the loan that was still outstanding in Woodchester?

A. Well, as you put it, not exactly, but that was the general, you know.

Q. Mr. Phelan would have been able to give, I presume, a lot of information about the Investec end?

A. Yes. He was the one

Q. Mr. Aidan Phelan, sorry.

A. He was most familiar with I think he was the only one that had really knowledge of that.

Q. Mr. Kevin Phelan would have been able to tell you something about the property end, who owned what and

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who was doing what with what property?

A. Not so much who owned what, but what the commercial aspect of them was.

Q. I understand. And then the person who would have had dealings both with Investec and with the properties was Mr. Christopher Vaughan. He would have been keeping the file; isn't that right?

A. At that moment in time, I wouldn't have been as familiar with his involvement with Investec, the bank, okay?

Q. Well

A. That became a bit more obvious.

Q. I understand that, but I presume that as a commercial man, you'd know that where there is a borrowing involved, there is a solicitor involved; and a solicitor, at the very least, has to assure the bank that their interests are protected?

A. I would have no doubt that he had contact, but

Q. Now, did you ask questions at that meeting to try to clarify your understanding of what this whole thing was about?

A. I did, yeah.

Q. Did you not think of asking Mr. Vaughan could you have a copy of the file?

A. No.

Q. Wasn't that going to be the one concrete source, if you like, of knowledge as to what had happened between Mr. Aidan Phelan and Mr. Kevin Phelan and Mr. Michael Lowry in connection with this matter?

A. Well, I thought the answer to your question would have

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been Christopher Vaughan and his files.

Q. Both, Christopher Vaughan and his files?

A. Correct.

Q. And did he have his files with him?

A. He did. He certainly had two files, I would say, three possibly, right.

Q. Did you ever get or did anyone ask him or did he offer it's three questions, I know a copy of that file?

A. No. Sorry, not to my presence or knowledge.

Q. How long did the meeting take?

A. My recollection is it was supposed to start in the afternoon, and I agree with Mr. Lowry here, there was some delay on his side or something.

Q. Would you agree with him, two or three hours?

A. I would have said three hours if you asked me cold, but

Q. All right. Do you have do you recall keeping any note of that meeting?

A. No, I don't. And if I could just, Mr. Chairman, say again that I think the way this was presented in the Opening Statement yesterday, I feel it pointed to my ability; and to make a reference to being a source of amusement, I find deeply especially public amusement

Q. "Bemusement" was the word.

A. Well, amusement.

Q. Bemusement, surprise?

A. Bemusement, right. Well, as the Tribunal team know, I have attended numerous meetings here, lengthy ones, serious ones, presentations, and you have never seen me /AP

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taking notes of any meeting. And I have been here on my own, and I have attended meetings downstairs, and I have seen no one on your side, on occasions, taking notes; so note-taking is not in my modus operandi.

What I do is I attend meetings, and afterwards I say "Right; what do I do next?" So I didn't take notes, and I never take notes.

Q. I just have to correct you, I don't think it's right that the Tribunal doesn't take notes. Mr. Davis isn't here. I don't think he'd be very impressed with that.

A. I know that, but I have been at meetings downstairs where notes weren't taken.

Q. This was the the purpose of this meeting was to gather information, was it?

A. Correct.

Q. Is it your practice not to take notes, or was it a decision you made on this occasion not to take notes?

A. It was my practice not to take notes. I cannot even recall the last time I took notes at a meeting.

Q. Would you agree with me and I am not criticising you



for it here but that it is usual for professional men at meetings to take notes where the purpose of the meeting is to gather information about something?

A. As far as I am concerned, as regards accountants, no.

Q. As regards lawyers?

A. Lawyers, sorry

Q. As regards lawyers?

A. Certainly I would agree that lawyers do sorry, do more note-taking than accountants, but I have attended meetings with lawyers where no notes were taken either.

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Q. The purpose of this meeting was to deal with very serious suggestions that were being made in a bank, Investec Bank, which had been reported to the Central Bank and which were due to be reported to the Tribunal concerning a linkage between Mr. Denis O'Brien and Mr. Michael Lowry in connection with property transactions in England. Mr. Michael Lowry has said that he knew nothing about this; he was out of these transactions out of the Cheadle one, anyway and he knew nothing about a connection. And he was gasping for information, I would think. He wasn't able to give you enough information when he met you off the plane. You weren't able to get enough information after your lengthy meeting the following week. He wasn't able to get much information at his meeting in Mr. Aidan

Phelan's offices.

We have three, six, nine hours of meetings, and still it's necessary to have a very big meeting at the Regency Airport Hotel, attended by two accountants, one chartered secretary, one quantity surveyor, and one extremely experienced property solicitor. Now, it's in that context, Mr. O'Connor, that the Tribunal is surprised that there isn't a single note of this meeting.

A. Well, obviously the Tribunal is entitled to be surprised, but I don't recall anyone taking notes. I knew what my role was at the meeting, and when the meeting ended, I set about fulfilling my role. And I remember you know, you say that the focus of the /AP

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meeting was the Cheadle side. Well, in fact, most of the commencement of the meeting was taken up with the Mansfield side. Because believe it or not, it might sound amazing to the Tribunal, my starting point was, "Lowry, where did you get the money to pay the deposit?"

That was my starting point. Not what was going on down in Cheadle. And in fact, the first thing I did after that meeting was seek the financial data from where he paid that, because that was one of the first things that was presented to yourselves. As has been said in

here lots of times, it's the money trail is where you start, and that would be the natural place I would start.

And I remember just you know, if you want to talk about the second side, quite a lot of detail, and there weren't full answers at the meeting. This company Catclaw. I thought until that day I thought that was spelt C-A-T-S-C-L-A-W-S. That was the first time I found out how that was spelt. That was the type of meeting.

Q. How did you find that out? Did somebody give you a document?

A. I certainly organised a search. I asked Christopher Vaughan. He actually at that meeting had a copy of I think it was a Companies Office search, or else it was the initial companies registration office documents on filing, or certificate of incorporation. He had, /AP

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certainly, secretarial records.

Q. Which showed the officers of the company?

A. Yeah, now I just know they were Companies Office forms.

Q. In any case, leaving the officers aside, you at least saw the spelling of the company?

A. That's what I recollect more than. At that stage, I wouldn't have sort of said to him, "Were Michael Lowry and Lorraine Lowry directors of the company?" That had

already been put to me by Michael Lowry, so I would have accepted that.

So just to go back on your question, therefore I would have been very keen on the starting point; that would have been my first issue, when did this whole thing start? So it started with Mansfield. Then I would have been particularly interested in the money trail up and how it affected Michael Lowry; where did the money come from?

And as you know here, that would have been my natural progression with him. Not whether it was charges or cautions or this, that, or the other flying around the place. It wouldn't have concerned me so much as "Where did you get the money?"

Q. Did other people have different concerns about the nature of the transaction, do you recall?

A. At the start of the meeting, as Mr. Lowry is right about this, there was a bit of disorder, because there was nearly kind of people jumping at one another. What was the current status, you know, that kind of stuff

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was going on. I wasn't, to be honest with you, interested whether they had sold them, didn't sell them, or whatever they had done.

Q. Did Mr. Vaughan chair the meeting?

A. No, no, I chaired sorry, that wouldn't be fair, just

to say it as baldly as that. After the initial chaos,  
if you like or not chaos, but like, some of these  
people

Q. You needed made an agenda?

A. No, said "Look, can we get a bit of order". I was  
conscious your man had to go back. I said "Look, can  
we get a bit of order and find out what the heck is  
going on".

Q. Did all the questions come through you then, or

A. No. You see, I wouldn't have been interested in a lot  
of the detail. I genuinely would only be interested in  
them from Michael Lowry's perspective, and I would have  
been particularly interested in the money trail. Where  
did he get the money? And that would have been the  
main concern.

And I mean, it was being said like, how was this  
deposit paid? And no matter what you do, there was no  
answer there at that meeting. You have got to go back.

I forget, even sitting here, what the source of it was.

I vaguely remember. But it took a couple of days just  
to get that document. Even forget how we got it.

Q. I understand how that would have been your concern. It  
seems a perfectly natural thing to do, to see if there  
was a money connection between Mr. Lowry and Mr.

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O'Brien. Let's look at the money, let's see where it

comes from. If Mr. Lowry got it himself, there would have been no connection with anybody else?

A. That wasn't my concern.

Q. That's a concern I would have. I can see why, as an accountant, you would want to see what was Mr. Lowry's role in these transactions; how did he get involved in them? Where did he get the money to get involved in them? But there were other people who had some answers to those questions, presumably. Mr. Aidan Phelan must have answers to see to how the money was provided?

A. He outlined it at the meeting. Now, at the meeting I remember distinctly conversations about Mansfield, and Christopher Vaughan outlining how money, and I think and I am only 99 money going into his client account, right, and like, Aidan Phelan was making it clear that there was substantial part of the money came from him and that Michael Lowry paid this 10 percent or whatever it was, 25,000 sterling I think, yeah.

And my concern wouldn't have been about the 300 or whatever it was; it would have been about the 25,000 or whatever it was. And you know, that's where it would have ended.

Q. Can we just talk about the Cheadle property. When it came to discussing that, what information did Christopher Vaughan give you?

A. That was very that aspect of it was confusing, right, because Catclaus was causing a lot of

confusion, right? But what I was being told was what's

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been outlined at the moment, is that it was purchased

whenever, that the money was borrowed from

Investec a lot of this I knew, obviously ,about the

Investec part, and that it was no longer Michael

Lowry's involvement. What I was actually more

interested in was silly things: again, was there a

bank account for Catclause? You know, how did it

operate? Who paid this, who paid that? Draw down.

That type of stuff.

Q. If you say that there was some confusion about

Catclause, there was no confusion, or was there any

confusion, about who was the owner of Cheadle? Forget

about how it was being loaned.

A. As of that date I was told that the owner of Cheadle

was Aidan Phelan. What I couldn't understand was, was

it still through Catclause? That didn't become evident

for a while. It was at that meeting that I found out

that Catclause was struck off, voluntarily

Q. Did Mr. Vaughan say to you "Sometimes I get mixed up

between Catclause and Aidan Phelan owns it, or was it

Michael Lowry and Aidan Phelan owns it?"

A. No.

Q. Did you think Mr. Vaughan was aware at that stage, at

that meeting, that one of the issues being raised in

the bank was who owns this property? Who is the client, if you like?

A. The client, sorry, by "the client", you mean?

Q. The client of the bank or the client of Mr. Vaughan.

A. Certainly there was yeah. Was he aware there was confusion in Investec Bank? Absolutely, yes.

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Q. Yes. Wasn't that the point?

A. Absolutely.

Q. Investec were

A. That was major stuff at that time, yeah.

Q. Yes, their problem was, "Who is our client? We don't know whether it's Catclaus Michael Lowry, or whether it's Catclaus Aidan Phelan, or what".

But they wanted to know whether it was Michael Lowry, or Aidan Phelan, Michael Lowry or somebody else. That was an issue?

A. Correct, absolutely.

Q. And Mr. Vaughan presumably said "It's Aidan Phelan"?

A. Yes.

Q. Did Mr. Kevin Phelan ever say at that point "Well, some confusion could have arisen because sometimes

Christopher Vaughan gets Michael Lowry and Aidan Phelan mixed up"?

A. No, no.

Q. I almost forgot about the tax matter, Mr. O'Connor, in



respect of which you gave the Tribunal a statement. Is it yesterday, the 29th?

A. Yes.

Q. I'll just read out your statement.

"Statement of Denis O'Connor in relation to evidence of Michael Lowry on the 7th November, 2001, in relation to advice on tax implications of UK property deals.

"When I had finished giving evidence at the end of July

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2001, Michael Lowry did mention to me that he had discussed with me the tax implications of UK property disposal. I could not readily recall it but accepted that it may be true and agreed to check my office files.

"On September 29th last, I did an internal memo to two of my colleagues seeking their assistance. One responded in the negative (copy attached) but as a result of same, I checked old Income Tax files. I then found a memo dated August 30th, 1999, in the old Income Tax files from Patricia Quigley, tax manager in Brophy Butler Thornton, to myself. This was in response to a memo from me which I cannot locate. It obviously relates to selling UK property. I have no specific recollection but accept it was discussed.

"At that time I contacted Patricia Quigley, who was no longer employed by Brophy Butler Thornton, to seek her

help. She advised me that she could recall it generally but not specifically. Her recollection was that she may have discussed it with Michael Lowry; therefore attached are a printout of my internal e-mail of September 29th last, a printout of one response of October 1st last, an original of Patricia Quigley's memo of 30th August, as per the files, and as requested.

"As this memo contains matters other than the property which matters were indeed the main subject of the memo,

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I have taken the liberty of enclosing a copy which excludes these details."

Now, as I said when asking Mr. Lowry about this, the memo is from you is from Patricia Quigley to you, dated 30th August, and it deals with the tax implications of a number of personal and unrelated matters of Mr. Michael Lowry?

A. As I read it, it would in effect suggest to me it was two issues. You know what I mean? The major part would have been a specific one, query how you handle a particular situation, you know. Even though it's a lengthy reply, it would have been one issue.

Q. Yes, it's just that; my own analysis of it is that it's the tax issues of the personal matters that are being discussed, and then there is another tax issue maybe

unrelated, maybe totally separate relating to sale of UK property. And Ms. Quigley says "I cannot find the CGT workings I did for this. Do you have a copy?

If not I can redo it. I need the following:

Estimated sale proceeds, cost, date of acquisition."

Now, as I read that document, Ms. Quigley is suggesting, I think, to you that she did CGT workings?

A. Correct.

Q. And that in order to do CGT workings, she must have actually had information about a property which enabled her to calculate what the gross gain was, and then to work out from that what the chargeable gain was; is that the way accountants do it?

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A. Well, knowing Patricia Quigley, who worked in our place for quite a few years, if she had, if you like, formal details of a specific deal, we'd have found the memo; whereas if she was asked, as people do ask, "Supposing I buy something for this and sell something for that", she would have done it on a piece of paper and either given it to a client or I suppose, to be honest about it, thrown it in the bin that evening.

Q. I appreciate that; I am not making any point about the fact that they had gone missing. All I am saying is that clearly at this point she was under the impression that she had done workings?

A. Correct.

Q. And in order to do those workings, she must have had actual information?

A. Correct.

Q. The estimated sale proceeds?

A. Correct.

Q. The cost of the building and the date of acquisition?

A. Correct.

Q. And using her knowledge of UK CGT tax law, she'd have then calculated what the, I suppose, approximate tax liability would have been?

A. Yeah, but possibly on I am trying to think of the right word here; on an example as distinct from a specific. You understand what I am trying to say?

Q. I do. Let me put it to you this way, so that you can be clear that we are on the same wavelength. Are you suggesting that she would have been told, "If I buy a property for 200,000 and I sell it for 500,000, what's

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my Capital Gains Tax liability?"

A. That's my view of what happened there.

Q. You have heard the evidence about Mr. Lowry's property acquisition in the UK?

A. Correct.

Q. I think as of August 1999, according to the evidence, the only property he had was Mansfield?

A. That would be right.

Q. And he only had 10 percent of Mansfield?

A. Correct.

Q. Would I be right in thinking you wouldn't put somebody to the trouble of carrying out Capital Gains Tax calculations for 10 percent? It was hardly going to make a big difference, was it?

A. I'd agree with you there.

Q. I think he said himself, in fairness to him and to Aidan Phelan, that there was a possibility of something called a slice off the top, depending on how well they did, but that wouldn't necessarily be chargeable to Capital Gains Tax. There would be other tax implications for that, Income Tax or whatever?

A. Yeah. You would imagine that somebody actually asking about the scenario you are asking, in Dublin, he would be concerned about his UK CGT legislation the same as here. That's what but again I am speculating.

Q. I understand, but we may have to come back to Mr. Lowry on it. But if you are asking a question like that, and if you were putting someone to the trouble of you know, doing something about it, wouldn't it probably be because you felt that there was going to be a

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substantial liability to Capital Gains Tax?

A. Yeah, you would imagine that, yeah.

Q. And that you probably owned more than 10 percent of a property?

A. You would imagine that.

Q. 50 or 100 percent?

A. Well, that you are going to make a profit of I mean, this is not fair on him.

Q. We'll leave it at that and take it up with Mr. Lowry.

I didn't want to take it up with him until I had spoken to you about it.

A. I can't recall any of those details.

Q. Thank you very much.

MR. O'DONNELL: Just a few questions, Sir.

THE WITNESS WAS EXAMINED AS FOLLOWS BY MR. O'DONNELL:

Q. Mr. O'Connor, at the meeting at the airport hotel Mr.

Vaughan was present at, was there any discussion of Mr.

Vaughan's disposition towards the Tribunal or his

willingness to cooperate or otherwise?

A. Yeah. Well, certainly everyone at that meeting undertook to cooperate fully with the Tribunal. That was the definite message I left there with.

Q. And that was shared by everybody around the table, including Mr. Vaughan?

A. Correct.

Q. And subsequently to that meeting, we know that Mr.

Vaughan attended with the Tribunal in a private meeting?

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A. Correct.

Q. I think that you have been involved with Mr. Lowry, as it were, as a liaison between Mr. Lowry at this Tribunal and indeed the previous Tribunal for some time now?

A. Correct.

Q. More time than we care to remember?

A. Correct.

Q. And in that role, I think you have always functioned as attempting to put some order on Mr. Lowry's affairs to facilitate the Tribunal's investigation and understanding of his financial and other affairs?

A. That's correct.

Q. And in all those circumstances, dating back to the commencement of the Tribunal, I think you gathered the information, presented it to the Tribunal, and the Tribunal then investigated it?

A. That's correct.

Q. And is there any difference in your involvement here in relation to the Cheadle transaction with your involvement in other areas of the investigation?

A. No.

Q. And at any stage has the Tribunal suggested to you that you were ought not to be involved, or were unhelpful to them, or were not disclosing matters to them?

A. No.

Q. Now, can I ask you one last thing. Mr. Healy, in asking Mr. Lowry questions, put it to him what a member of the public might understand or deduce from certain things. Now, you heard Mr. Healy put to Mr. Lowry,  
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about that meeting that you attended, that he considered it odd that there were no notes taken by the persons present, one of whom was you; that he was bemused by it and could not understand it. What do you think a member of the public might understand from the questions put in that way by counsel for the Tribunal in relation to your involvement, Mr. O'Connor?

A. That there might have been an effort to either conceal, create new files, whatever, I don't know.

Q. And is there any truth in that ,from your perspective or the perspective of anybody else involved in that meeting?

A. No.

Q. And do you think it was fair that the matter should have been put in that way in relation to your reputation?

A. No.

Q. Thank you, Mr. O'Connor.

THE WITNESS WAS FURTHER EXAMINED BY MR. HEALY:

Q. Two small matters arising out of that, Mr. O'Connor.

The first one is you say everyone at the meeting



undertook to cooperate fully with the Tribunal?

A. That's correct.

Q. Did that include Mr. Kevin Phelan?

A. It would.

Q. It did?

A. Yeah.

Q. You know Mr. Kevin Phelan has not attended to give evidence?

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A. I am conscious of that, yeah.

Q. The second point I just want to make is this. I want to underline for a moment a lot of what Mr. O'Donnell said, that you have provided the Tribunal with a lot of assistance; and in light of what he said, can I ask you this question: It was known to Mr. Lowry that you had provided the Tribunal with a lot of assistance, and I think the assistance you had provided the Tribunal had been mentioned in commendatory evidence at this Tribunal up to that date?

A. Up to

Q. That date?

A. You mean in March 2001?

Q. Yes.

A. I believe so, yeah. Sorry, correct.

Q. And did other people at that meeting know that you had had considerable experience of dealing with the

Tribunal and that you had a good relationship with the Tribunal? They would have?

A. Certainly Aidan Phelan and Helen Malone would have. I wouldn't be sure about Christopher Vaughan. I wouldn't be.

Q. I see. Did anyone mention to Christopher Vaughan at the meeting, to your knowledge, in any case, that you were somebody who had a good relationship and who had been in the habit of making presentations on behalf of Mr. Lowry?

A. No, not in my presence. In fact, at that meeting, that was the first time I had met Aidan Phelan, believe it or not, since '90 whatever it was, the Masser Hammond /AP

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meeting.

Q. Well, I think the Masser Hammond meeting, that's right.

A. Like, when you ask that question, the more I think about it, it didn't come up, and what views people have...

Q. If somebody wanted to convince you of something or provide you with information or an account of a particular transaction, or somebody wanted to provide an account of a particular transaction and wanted to be sure that that transaction would go to the Tribunal and would be consistent with the view that Mr. Lowry was not involved in the Cheadle property transaction after

January/February of 2000, I suppose it would be a good idea to convince you that he wasn't involved, wouldn't it?

A. Yeah.

Q. Thanks.

CHAIRMAN: Thanks very much, Mr. O'Connor.

MR. COUGHLAN: Those are the witnesses available at present, Sir.

I think I should just deal with one matter. This morning the Tribunal received a facsimile from Mr. Kevin Phelan, which the Tribunal has not yet replied to, but I think you are anxious

CHAIRMAN: Yes, it would be my preference, Mr. Coughlan, to have been in the position to reply to it /AP

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first, but I think it was just before we sat. But since we will not be sitting, bar some emergency, for a number of weeks, I think it may be more complete and desirable to put it on the record.

MR. COUGHLAN: Very good, Sir. And it relates to something which happened yesterday, Sir. And we received one yesterday from Mr. Phelan, which we read out, and we received this morning from Mr. Phelan, and I intend to read it out. Mr. Kevin Phelan.

And it's addressed to Mr. Davis at the Tribunal, and it's dated 30th July, 2002, and it reads:

"Dear Sir.

"I have read with dismay the article in the Irish Times today. I am extremely upset and believe that the publication of my private address in the newspaper is a complete invasion of my privacy. Further, as the property is in the ownership of my wife, I believe the publication has seriously infringed her privacy and her home. The fact that we live in Northern Ireland adds a further serious dimension to the publication of our address, particularly when we have received threats in the past. These threats have been reported to the RUC, now PSNI, on previous occasions.

"I believe the Tribunal has acted in bad faith and may have put our security in jeopardy. I telephoned your  
/AP

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office to register my anger today; however, a cleaner answered the telephone at 9.15am. I further believe that any further cooperation with this Tribunal is now in serious question from my point of view. I believe the Tribunal's tactics may only be referred to as "dirty tricks" and will be viewed as so by me."

CHAIRMAN: Well, I propose, subject to advice from you and others, Mr. Coughlan, asking Mr. Davis to reply in terms that had we been alerted to that security contingency, we would have been only too ready, as we have in analogous situations with other witnesses, to

have screened the particular address, had we been notified of that; and nonetheless to remind the gentleman that it remains a situation in which we are very anxious that he attend to give evidence, and perhaps, as somebody who resides a good deal closer to this jurisdiction than Mr. Vaughan, that is something he may care to reflect on.

MR. COUGHLAN: And of course documents, all documents were served on Mr. Phelan, Mr. Kevin Phelan last week, and he was asked to come and give evidence, and on that occasion he made no response indicating any concern about the security aspects relating to his address.

CHAIRMAN: Quite so.

Well, that concludes this relatively limited sitting.

Then I accept giving formal confirmation of the

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resumption of the substantive sittings early in October on the lines that I said this morning, and the Tribunal will be continuing to work here over the two months, and if any emergency arises will be prepared to sit.

Thank you.

THE TRIBUNAL THEN ADJOURNED UNTIL FURTHER NOTICE.

/AP